

E2SSB 5763 - CONF REPT
By Conference Committee

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 GENERAL PROVISIONS

5 NEW SECTION. **Sec. 101.** The legislature finds that persons with
6 mental disorders, chemical dependency disorders, or co-occurring mental
7 and substance abuse disorders are disproportionately more likely to be
8 confined in a correctional institution, become homeless, become
9 involved with child protective services or involved in a dependency
10 proceeding, or lose those state and federal benefits to which they may
11 be entitled as a result of their disorders. The legislature finds that
12 prior state policy of addressing mental health and chemical dependency
13 in isolation from each other has not been cost-effective and has often
14 resulted in longer-term, more costly treatment that may be less
15 effective over time. The legislature finds that a substantial number
16 of persons have co-occurring mental and substance abuse disorders and
17 that identification and integrated treatment of co-occurring disorders
18 is critical to successful outcomes and recovery. Consequently, the
19 legislature intends, to the extent of available funding, to:

20 (1) Establish a process for determining which persons with mental
21 disorders and substance abuse disorders have co-occurring disorders;

22 (2) Reduce the gap between available chemical dependency treatment
23 and the documented need for treatment;

24 (3) Improve treatment outcomes by shifting treatment, where
25 possible, to evidence-based, research-based, and consensus-based
26 treatment practices and by removing barriers to the use of those
27 practices;

1 (4) Expand the authority for and use of therapeutic courts
2 including drug courts, mental health courts, and therapeutic courts for
3 dependency proceedings;

4 (5) Improve access to treatment for persons who are not enrolled in
5 medicaid by improving and creating consistency in the application
6 processes, and by minimizing the numbers of eligible confined persons
7 who leave confinement without medical assistance;

8 (6) Improve access to inpatient treatment by creating expanded
9 services facilities for persons needing intensive treatment in a secure
10 setting who do not need inpatient care, but are unable to access
11 treatment under current licensing restrictions in other settings;

12 (7) Establish secure detoxification centers for persons
13 involuntarily detained as gravely disabled or presenting a likelihood
14 of serious harm due to chemical dependency and authorize combined
15 crisis responders for both mental disorders and chemical dependency
16 disorders on a pilot basis and study the outcomes;

17 (8) Slow or stop the loss of inpatient and intensive residential
18 beds and children's long-term inpatient placements and refine the
19 balance of state hospital and community inpatient and residential beds;

20 (9) Improve cross-system collaboration including collaboration with
21 first responders and hospital emergency rooms, schools, primary care,
22 developmental disabilities, law enforcement and corrections, and
23 federally funded and licensed programs;

24 (10) Following the receipt of outcomes from the pilot programs in
25 Part II of this act, if directed by future legislative enactment,
26 implement a single, comprehensive, involuntary treatment act with a
27 unified set of standards, rights, obligations, and procedures for
28 adults and children with mental disorders, chemical dependency
29 disorders, and co-occurring disorders; and

30 (11) Amend existing state law to address organizational and
31 structural barriers to effective use of state funds for treating
32 persons with mental and substance abuse disorders, minimize internal
33 inconsistencies, clarify policy and requirements, and maximize the
34 opportunity for effective and cost-effective outcomes.

35 NEW SECTION. **Sec. 102.** (1) The department of social and health
36 services shall explore and report to the appropriate committees of the

1 legislature by December 1, 2005, on the feasibility, costs, benefits,
2 and time frame to access federal medicaid funds for mental health and
3 substance abuse treatment under the following provisions:

4 (a) The optional clinic provisions;

5 (b) Children's mental health treatment or co-occurring disorders
6 treatment under the early periodic screening, diagnosis, and treatment
7 provisions.

8 (2) The department shall provide the appropriate committees of the
9 legislature with a clear and concise explanation of the reasons for
10 reducing state hospital capacity and the differences in costs and
11 benefits of treatment in state and community hospital treatment.

12 (3) The department may not reduce the capacity of either state
13 hospital until at least an equal number of skilled nursing,
14 residential, expanded services facility, or supported housing
15 placements are available in the community to the persons displaced by
16 the capacity reduction.

17 **Mental Health Treatment**

18 NEW SECTION. **Sec. 103.** A new section is added to chapter 71.05
19 RCW to read as follows:

20 (1) Not later than January 1, 2007, all persons providing treatment
21 under this chapter shall also implement the integrated comprehensive
22 screening and assessment process for chemical dependency and mental
23 disorders adopted pursuant to section 601 of this act and shall
24 document the numbers of clients with co-occurring mental and substance
25 abuse disorders based on a quadrant system of low and high needs.

26 (2) Treatment providers and regional support networks who fail to
27 implement the integrated comprehensive screening and assessment process
28 for chemical dependency and mental disorders by July 1, 2007, shall be
29 subject to contractual penalties established under section 601 of this
30 act.

31 **Sec. 104.** RCW 71.05.020 and 2000 c 94 s 1 are each amended to read
32 as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

1 (1) "Admission" or "admit" means a decision by a physician that a
2 person should be examined or treated as a patient in a hospital;

3 (2) "Antipsychotic medications" means that class of drugs primarily
4 used to treat serious manifestations of mental illness associated with
5 thought disorders, which includes, but is not limited to atypical
6 antipsychotic medications;

7 (3) "Attending staff" means any person on the staff of a public or
8 private agency having responsibility for the care and treatment of a
9 patient;

10 (4) "Commitment" means the determination by a court that a person
11 should be detained for a period of either evaluation or treatment, or
12 both, in an inpatient or a less restrictive setting;

13 (5) "Conditional release" means a revocable modification of a
14 commitment, which may be revoked upon violation of any of its terms;

15 ~~(6) ("County designated mental health professional" means a mental
16 health professional appointed by the county to perform the duties
17 specified in this chapter;~~

18 ~~(7))~~ "Custody" means involuntary detention under the provisions of
19 this chapter or chapter 10.77 RCW, uninterrupted by any period of
20 unconditional release from commitment from a facility providing
21 involuntary care and treatment;

22 ~~((8))~~ (7) "Department" means the department of social and health
23 services;

24 ~~((9))~~ (8) "Designated chemical dependency specialist" means a
25 person designated by the county alcoholism and other drug addiction
26 program coordinator designated under RCW 70.96A.310 to perform the
27 commitment duties described in chapter 70.96A RCW and sections 202
28 through 216 of this act;

29 (9) "Designated crisis responder" means a mental health
30 professional appointed by the county or the regional support network to
31 perform the duties specified in this chapter;

32 (10) "Designated mental health professional" means a mental health
33 professional designated by the county or other authority authorized in
34 rule to perform the duties specified in this chapter;

35 (11) "Detention" or "detain" means the lawful confinement of a
36 person, under the provisions of this chapter;

37 ~~((10))~~ (12) "Developmental disabilities professional" means a
38 person who has specialized training and three years of experience in

1 directly treating or working with persons with developmental
2 disabilities and is a psychiatrist, psychologist, or social worker, and
3 such other developmental disabilities professionals as may be defined
4 by rules adopted by the secretary;

5 ~~((11))~~ (13) "Developmental disability" means that condition
6 defined in RCW 71A.10.020(3);

7 ~~((12))~~ (14) "Discharge" means the termination of hospital medical
8 authority. The commitment may remain in place, be terminated, or be
9 amended by court order;

10 ~~((13))~~ (15) "Evaluation and treatment facility" means any
11 facility which can provide directly, or by direct arrangement with
12 other public or private agencies, emergency evaluation and treatment,
13 outpatient care, and timely and appropriate inpatient care to persons
14 suffering from a mental disorder, and which is certified as such by the
15 department. A physically separate and separately operated portion of
16 a state hospital may be designated as an evaluation and treatment
17 facility. A facility which is part of, or operated by, the department
18 or any federal agency will not require certification. No correctional
19 institution or facility, or jail, shall be an evaluation and treatment
20 facility within the meaning of this chapter;

21 ~~((14))~~ (16) "Gravely disabled" means a condition in which a
22 person, as a result of a mental disorder: (a) Is in danger of serious
23 physical harm resulting from a failure to provide for his or her
24 essential human needs of health or safety; or (b) manifests severe
25 deterioration in routine functioning evidenced by repeated and
26 escalating loss of cognitive or volitional control over his or her
27 actions and is not receiving such care as is essential for his or her
28 health or safety;

29 ~~((15))~~ (17) "Habilitative services" means those services provided
30 by program personnel to assist persons in acquiring and maintaining
31 life skills and in raising their levels of physical, mental, social,
32 and vocational functioning. Habilitative services include education,
33 training for employment, and therapy. The habilitative process shall
34 be undertaken with recognition of the risk to the public safety
35 presented by the ~~((individual))~~ person being assisted as manifested by
36 prior charged criminal conduct;

37 ~~((16))~~ (18) "History of one or more violent acts" refers to the
38 period of time ten years prior to the filing of a petition under this

1 chapter, excluding any time spent, but not any violent acts committed,
2 in a mental health facility or in confinement as a result of a criminal
3 conviction;

4 ~~((+17))~~ (19) "Individualized service plan" means a plan prepared
5 by a developmental disabilities professional with other professionals
6 as a team, for ~~((an individual))~~ a person with developmental
7 disabilities, which shall state:

8 (a) The nature of the person's specific problems, prior charged
9 criminal behavior, and habilitation needs;

10 (b) The conditions and strategies necessary to achieve the purposes
11 of habilitation;

12 (c) The intermediate and long-range goals of the habilitation
13 program, with a projected timetable for the attainment;

14 (d) The rationale for using this plan of habilitation to achieve
15 those intermediate and long-range goals;

16 (e) The staff responsible for carrying out the plan;

17 (f) Where relevant in light of past criminal behavior and due
18 consideration for public safety, the criteria for proposed movement to
19 less-restrictive settings, criteria for proposed eventual discharge or
20 release, and a projected possible date for discharge or release; and

21 (g) The type of residence immediately anticipated for the person
22 and possible future types of residences;

23 ~~((+18))~~ (20) "Judicial commitment" means a commitment by a court
24 pursuant to the provisions of this chapter;

25 ~~((+19))~~ (21) "Likelihood of serious harm" means:

26 (a) A substantial risk that: (i) Physical harm will be inflicted
27 by ~~((an individual))~~ a person upon his or her own person, as evidenced
28 by threats or attempts to commit suicide or inflict physical harm on
29 oneself; (ii) physical harm will be inflicted by ~~((an individual))~~ a
30 person upon another, as evidenced by behavior which has caused such
31 harm or which places another person or persons in reasonable fear of
32 sustaining such harm; or (iii) physical harm will be inflicted by ~~((an~~
33 ~~individual))~~ a person upon the property of others, as evidenced by
34 behavior which has caused substantial loss or damage to the property of
35 others; or

36 (b) The ~~((individual))~~ person has threatened the physical safety of
37 another and has a history of one or more violent acts;

1 ~~((+20+))~~ (22) "Mental disorder" means any organic, mental, or
2 emotional impairment which has substantial adverse effects on ~~((an~~
3 ~~individual's))~~ a person's cognitive or volitional functions;

4 ~~((+21+))~~ (23) "Mental health professional" means a psychiatrist,
5 psychologist, psychiatric nurse, or social worker, and such other
6 mental health professionals as may be defined by rules adopted by the
7 secretary pursuant to the provisions of this chapter;

8 ~~((+22+))~~ (24) "Peace officer" means a law enforcement official of
9 a public agency or governmental unit, and includes persons specifically
10 given peace officer powers by any state law, local ordinance, or
11 judicial order of appointment;

12 ~~((+23+))~~ (25) "Private agency" means any person, partnership,
13 corporation, or association that is not a public agency, whether or not
14 financed in whole or in part by public funds, which constitutes an
15 evaluation and treatment facility or private institution, or
16 hospital(~~(, or sanitarium))~~), which is conducted for, or includes a
17 department or ward conducted for, the care and treatment of persons who
18 are mentally ill;

19 ~~((+24+))~~ (26) "Professional person" means a mental health
20 professional and shall also mean a physician, registered nurse, and
21 such others as may be defined by rules adopted by the secretary
22 pursuant to the provisions of this chapter;

23 ~~((+25+))~~ (27) "Psychiatrist" means a person having a license as a
24 physician and surgeon in this state who has in addition completed three
25 years of graduate training in psychiatry in a program approved by the
26 American medical association or the American osteopathic association
27 and is certified or eligible to be certified by the American board of
28 psychiatry and neurology;

29 ~~((+26+))~~ (28) "Psychologist" means a person who has been licensed
30 as a psychologist pursuant to chapter 18.83 RCW;

31 ~~((+27+))~~ (29) "Public agency" means any evaluation and treatment
32 facility or institution, or hospital(~~(, or sanitarium))~~ which is
33 conducted for, or includes a department or ward conducted for, the care
34 and treatment of persons who are mentally ill(~~(+{,+})~~), if the agency is
35 operated directly by, federal, state, county, or municipal government,
36 or a combination of such governments;

37 ~~((+28+))~~ (30) "Registration records" include all the records of the
38 department, regional support networks, treatment facilities, and other

1 persons providing services to the department, county departments, or
2 facilities which identify persons who are receiving or who at any time
3 have received services for mental illness;

4 (31) "Release" means legal termination of the commitment under the
5 provisions of this chapter;

6 ((+29+)) (32) "Resource management services" has the meaning given
7 in chapter 71.24 RCW;

8 ((+30+)) (33) "Secretary" means the secretary of the department of
9 social and health services, or his or her designee;

10 ((+31+)) (34) "Social worker" means a person with a master's or
11 further advanced degree from an accredited school of social work or a
12 degree deemed equivalent under rules adopted by the secretary;

13 ((+32+)) (35) "Treatment records" include registration and all
14 other records concerning persons who are receiving or who at any time
15 have received services for mental illness, which are maintained by the
16 department, by regional support networks and their staffs, and by
17 treatment facilities. Treatment records do not include notes or
18 records maintained for personal use by a person providing treatment
19 services for the department, regional support networks, or a treatment
20 facility if the notes or records are not available to others;

21 (36) "Violent act" means behavior that resulted in homicide,
22 attempted suicide, nonfatal injuries, or substantial damage to
23 property.

24 **Sec. 105.** RCW 71.24.025 and 2001 c 323 s 8 are each amended to
25 read as follows:

26 Unless the context clearly requires otherwise, the definitions in
27 this section apply throughout this chapter.

28 (1) "Acutely mentally ill" means a condition which is limited to a
29 short-term severe crisis episode of:

30 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
31 of a child, as defined in RCW 71.34.020;

32 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
33 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
34 or

35 (c) Presenting a likelihood of serious harm as defined in RCW
36 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

1 (2) "Available resources" means funds appropriated for the purpose
2 of providing community mental health programs (~~under RCW 71.24.045~~),
3 federal funds, except those provided according to Title XIX of the
4 Social Security Act, and state funds appropriated under this chapter or
5 chapter 71.05 RCW by the legislature during any biennium for the
6 purpose of providing residential services, resource management
7 services, community support services, and other mental health services.
8 This does not include funds appropriated for the purpose of operating
9 and administering the state psychiatric hospitals, except as negotiated
10 according to RCW 71.24.300(1)(e).

11 (3) "Child" means a person under the age of eighteen years.

12 (4) "Chronically mentally ill adult" means an adult who has a
13 mental disorder and meets at least one of the following criteria:

14 (a) Has undergone two or more episodes of hospital care for a
15 mental disorder within the preceding two years; or

16 (b) Has experienced a continuous psychiatric hospitalization or
17 residential treatment exceeding six months' duration within the
18 preceding year; or

19 (c) Has been unable to engage in any substantial gainful activity
20 by reason of any mental disorder which has lasted for a continuous
21 period of not less than twelve months. "Substantial gainful activity"
22 shall be defined by the department by rule consistent with Public Law
23 92-603, as amended.

24 (5) "Community mental health program" means all mental health
25 services, activities, or programs using available resources.

26 (6) "Community mental health service delivery system" means public
27 or private agencies that provide services specifically to persons with
28 mental disorders as defined under RCW 71.05.020 and receive funding
29 from public sources.

30 (7) "Community support services" means services authorized,
31 planned, and coordinated through resource management services
32 including, at a minimum, assessment, diagnosis, emergency crisis
33 intervention available twenty-four hours, seven days a week,
34 prescreening determinations for mentally ill persons being considered
35 for placement in nursing homes as required by federal law, screening
36 for patients being considered for admission to residential services,
37 diagnosis and treatment for acutely mentally ill and severely
38 emotionally disturbed children discovered under screening through the

1 federal Title XIX early and periodic screening, diagnosis, and
2 treatment program, investigation, legal, and other nonresidential
3 services under chapter 71.05 RCW, case management services, psychiatric
4 treatment including medication supervision, counseling, psychotherapy,
5 assuring transfer of relevant patient information between service
6 providers, recovery services, and other services determined by regional
7 support networks.

8 (8) "County authority" means the board of county commissioners,
9 county council, or county executive having authority to establish a
10 community mental health program, or two or more of the county
11 authorities specified in this subsection which have entered into an
12 agreement to provide a community mental health program.

13 (9) "Department" means the department of social and health
14 services.

15 (10) "Emerging best practice" or "promising practice" means a
16 practice that presents, based on preliminary information, potential for
17 becoming a research-based or consensus-based practice.

18 (11) "Evidence-based" means a program or practice that has had
19 multiple site random controlled trials across heterogeneous populations
20 demonstrating that the program or practice is effective for the
21 population.

22 (12) "Licensed service provider" means an entity licensed according
23 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
24 minimum standards as a result of accreditation by a recognized
25 behavioral health accrediting body recognized and having a current
26 agreement with the department, that meets state minimum standards or
27 ((individuals)) persons licensed under chapter 18.57, 18.71, 18.83, or
28 18.79 RCW, as it applies to registered nurses and advanced registered
29 nurse practitioners.

30 ((11)) (13) "Mental health services" means all services provided
31 by regional support networks and other services provided by the state
32 for the mentally ill.

33 ((12)) (14) "Mentally ill persons" and "the mentally ill" mean
34 persons and conditions defined in subsections (1), (4), ((17)) (23),
35 and ((18)) (24) of this section.

36 ((13)) (15) "Recovery" means the process in which people are able
37 to live, work, learn, and participate fully in their communities.

1 (16) "Regional support network" means a county authority or group
2 of county authorities or other entity recognized by the secretary
3 ((that enter into joint operating agreements to contract with the
4 secretary pursuant to this chapter)) in contract in a defined area.

5 ~~((14))~~ (17) "Registration records" include all the records of the
6 department, regional support networks, treatment facilities, and other
7 persons providing services to the department, county departments, or
8 facilities which identify persons who are receiving or who at any time
9 have received services for mental illness.

10 (18) "Residential services" means a complete range of residences
11 and supports authorized by resource management services and which may
12 involve a facility, a distinct part thereof, or services which support
13 community living, for acutely mentally ill persons, chronically
14 mentally ill adults, severely emotionally disturbed children, or
15 seriously disturbed adults determined by the regional support network
16 to be at risk of becoming acutely or chronically mentally ill. The
17 services shall include at least evaluation and treatment services as
18 defined in chapter 71.05 RCW, acute crisis respite care, long-term
19 adaptive and rehabilitative care, and supervised and supported living
20 services, and shall also include any residential services developed to
21 service mentally ill persons in nursing homes, boarding homes, and
22 adult family homes, and may include outpatient services provided as an
23 element in a package of services in a supported housing model.
24 Residential services for children in out-of-home placements related to
25 their mental disorder shall not include the costs of food and shelter,
26 except for children's long-term residential facilities existing prior
27 to January 1, 1991.

28 ~~((15))~~ (19) "Research-based" means a program or practice that has
29 some research demonstrating effectiveness, but that does not yet meet
30 the standard of evidence-based practices.

31 (20) "Resilience" means the personal and community qualities that
32 enable individuals to rebound from adversity, trauma, tragedy, threats,
33 or other stresses, and to live productive lives.

34 (21) "Resource management services" mean the planning,
35 coordination, and authorization of residential services and community
36 support services administered pursuant to an individual service plan
37 for: (a) Acutely mentally ill adults and children; (b) chronically
38 mentally ill adults; (c) severely emotionally disturbed children; or

1 (d) seriously disturbed adults determined solely by a regional support
2 network to be at risk of becoming acutely or chronically mentally ill.
3 Such planning, coordination, and authorization shall include mental
4 health screening for children eligible under the federal Title XIX
5 early and periodic screening, diagnosis, and treatment program.
6 Resource management services include seven day a week, twenty-four hour
7 a day availability of information regarding mentally ill adults' and
8 children's enrollment in services and their individual service plan to
9 (~~county~~) designated mental health professionals, evaluation and
10 treatment facilities, and others as determined by the regional support
11 network.

12 ((~~16~~)) (22) "Secretary" means the secretary of social and health
13 services.

14 ((~~17~~)) (23) "Seriously disturbed person" means a person who:

15 (a) Is gravely disabled or presents a likelihood of serious harm to
16 himself or herself or others, or to the property of others, as a result
17 of a mental disorder as defined in chapter 71.05 RCW;

18 (b) Has been on conditional release status, or under a less
19 restrictive alternative order, at some time during the preceding two
20 years from an evaluation and treatment facility or a state mental
21 health hospital;

22 (c) Has a mental disorder which causes major impairment in several
23 areas of daily living;

24 (d) Exhibits suicidal preoccupation or attempts; or

25 (e) Is a child diagnosed by a mental health professional, as
26 defined in chapter 71.34 RCW, as experiencing a mental disorder which
27 is clearly interfering with the child's functioning in family or school
28 or with peers or is clearly interfering with the child's personality
29 development and learning.

30 ((~~18~~)) (24) "Severely emotionally disturbed child" means a child
31 who has been determined by the regional support network to be
32 experiencing a mental disorder as defined in chapter 71.34 RCW,
33 including those mental disorders that result in a behavioral or conduct
34 disorder, that is clearly interfering with the child's functioning in
35 family or school or with peers and who meets at least one of the
36 following criteria:

37 (a) Has undergone inpatient treatment or placement outside of the
38 home related to a mental disorder within the last two years;

1 (b) Has undergone involuntary treatment under chapter 71.34 RCW
2 within the last two years;

3 (c) Is currently served by at least one of the following child-
4 serving systems: Juvenile justice, child-protection/welfare, special
5 education, or developmental disabilities;

6 (d) Is at risk of escalating maladjustment due to:

7 (i) Chronic family dysfunction involving a mentally ill or
8 inadequate caretaker;

9 (ii) Changes in custodial adult;

10 (iii) Going to, residing in, or returning from any placement
11 outside of the home, for example, psychiatric hospital, short-term
12 inpatient, residential treatment, group or foster home, or a
13 correctional facility;

14 (iv) Subject to repeated physical abuse or neglect;

15 (v) Drug or alcohol abuse; or

16 (vi) Homelessness.

17 (~~(19)~~) (25) "State minimum standards" means minimum requirements
18 established by rules adopted by the secretary and necessary to
19 implement this chapter for: (a) Delivery of mental health services;
20 (b) licensed service providers for the provision of mental health
21 services; (c) residential services; and (d) community support services
22 and resource management services.

23 (~~(20)~~) (26) "Treatment records" include registration and all
24 other records concerning persons who are receiving or who at any time
25 have received services for mental illness, which are maintained by the
26 department, by regional support networks and their staffs, and by
27 treatment facilities. Treatment records do not include notes or
28 records maintained for personal use by a person providing treatment
29 services for the department, regional support networks, or a treatment
30 facility if the notes or records are not available to others.

31 (27) "Tribal authority," for the purposes of this section and RCW
32 71.24.300 only, means: The federally recognized Indian tribes and the
33 major Indian organizations recognized by the secretary insofar as these
34 organizations do not have a financial relationship with any regional
35 support network that would present a conflict of interest.

36 **Sec. 106.** RCW 10.77.010 and 2004 c 157 s 2 are each amended to
37 read as follows:

1 As used in this chapter:

2 (1) "Admission" means acceptance based on medical necessity, of a
3 person as a patient.

4 (2) "Commitment" means the determination by a court that a person
5 should be detained for a period of either evaluation or treatment, or
6 both, in an inpatient or a less-restrictive setting.

7 (3) "Conditional release" means modification of a court-ordered
8 commitment, which may be revoked upon violation of any of its terms.

9 (4) (~~("County designated mental health professional" has the same~~
10 ~~meaning as provided in RCW 71.05.020.~~

11 ~~(5))~~) A "criminally insane" person means any person who has been
12 acquitted of a crime charged by reason of insanity, and thereupon found
13 to be a substantial danger to other persons or to present a substantial
14 likelihood of committing criminal acts jeopardizing public safety or
15 security unless kept under further control by the court or other
16 persons or institutions.

17 (~~(6))~~) (5) "Department" means the state department of social and
18 health services.

19 (6) "Designated mental health professional" has the same meaning as
20 provided in RCW 71.05.020.

21 (7) "Detention" or "detain" means the lawful confinement of a
22 person, under the provisions of this chapter, pending evaluation.

23 (8) "Developmental disabilities professional" means a person who
24 has specialized training and three years of experience in directly
25 treating or working with persons with developmental disabilities and is
26 a psychiatrist or psychologist, or a social worker, and such other
27 developmental disabilities professionals as may be defined by rules
28 adopted by the secretary.

29 (9) "Developmental disability" means the condition as defined in
30 RCW 71A.10.020(3).

31 (10) "Discharge" means the termination of hospital medical
32 authority. The commitment may remain in place, be terminated, or be
33 amended by court order.

34 (11) "Furlough" means an authorized leave of absence for a resident
35 of a state institution operated by the department designated for the
36 custody, care, and treatment of the criminally insane, consistent with
37 an order of conditional release from the court under this chapter,

1 without any requirement that the resident be accompanied by, or be in
2 the custody of, any law enforcement or institutional staff, while on
3 such unescorted leave.

4 (12) "Habilitative services" means those services provided by
5 program personnel to assist persons in acquiring and maintaining life
6 skills and in raising their levels of physical, mental, social, and
7 vocational functioning. Habilitative services include education,
8 training for employment, and therapy. The habilitative process shall
9 be undertaken with recognition of the risk to the public safety
10 presented by the (~~individual~~) person being assisted as manifested by
11 prior charged criminal conduct.

12 (13) "History of one or more violent acts" means violent acts
13 committed during: (a) The ten-year period of time prior to the filing
14 of criminal charges; plus (b) the amount of time equal to time spent
15 during the ten-year period in a mental health facility or in
16 confinement as a result of a criminal conviction.

17 (14) "Incompetency" means a person lacks the capacity to understand
18 the nature of the proceedings against him or her or to assist in his or
19 her own defense as a result of mental disease or defect.

20 (15) "Indigent" means any person who is financially unable to
21 obtain counsel or other necessary expert or professional services
22 without causing substantial hardship to the person or his or her
23 family.

24 (16) "Individualized service plan" means a plan prepared by a
25 developmental disabilities professional with other professionals as a
26 team, for an individual with developmental disabilities, which shall
27 state:

28 (a) The nature of the person's specific problems, prior charged
29 criminal behavior, and habilitation needs;

30 (b) The conditions and strategies necessary to achieve the purposes
31 of habilitation;

32 (c) The intermediate and long-range goals of the habilitation
33 program, with a projected timetable for the attainment;

34 (d) The rationale for using this plan of habilitation to achieve
35 those intermediate and long-range goals;

36 (e) The staff responsible for carrying out the plan;

37 (f) Where relevant in light of past criminal behavior and due

1 consideration for public safety, the criteria for proposed movement to
2 less-restrictive settings, criteria for proposed eventual release, and
3 a projected possible date for release; and

4 (g) The type of residence immediately anticipated for the person
5 and possible future types of residences.

6 (17) "Professional person" means:

7 (a) A psychiatrist licensed as a physician and surgeon in this
8 state who has, in addition, completed three years of graduate training
9 in psychiatry in a program approved by the American medical association
10 or the American osteopathic association and is certified or eligible to
11 be certified by the American board of psychiatry and neurology or the
12 American osteopathic board of neurology and psychiatry;

13 (b) A psychologist licensed as a psychologist pursuant to chapter
14 18.83 RCW; or

15 (c) A social worker with a master's or further advanced degree from
16 an accredited school of social work or a degree deemed equivalent under
17 rules adopted by the secretary.

18 (18) "Registration records" include all the records of the
19 department, regional support networks, treatment facilities, and other
20 persons providing services to the department, county departments, or
21 facilities which identify persons who are receiving or who at any time
22 have received services for mental illness.

23 (19) "Release" means legal termination of the court-ordered
24 commitment under the provisions of this chapter.

25 ((+19+)) (20) "Secretary" means the secretary of the department of
26 social and health services or his or her designee.

27 ((+20+)) (21) "Treatment" means any currently standardized medical
28 or mental health procedure including medication.

29 ((+21+)) (22) "Treatment records" include registration and all
30 other records concerning persons who are receiving or who at any time
31 have received services for mental illness, which are maintained by the
32 department, by regional support networks and their staffs, and by
33 treatment facilities. Treatment records do not include notes or
34 records maintained for personal use by a person providing treatment
35 services for the department, regional support networks, or a treatment
36 facility if the notes or records are not available to others.

37 (23) "Violent act" means behavior that: (a)(i) Resulted in; (ii)
38 if completed as intended would have resulted in; or (iii) was

1 threatened to be carried out by a person who had the intent and
2 opportunity to carry out the threat and would have resulted in,
3 homicide, nonfatal injuries, or substantial damage to property; or (b)
4 recklessly creates an immediate risk of serious physical injury to
5 another person. As used in this subsection, "nonfatal injuries" means
6 physical pain or injury, illness, or an impairment of physical
7 condition. "Nonfatal injuries" shall be construed to be consistent
8 with the definition of "bodily injury," as defined in RCW 9A.04.110.

9 **Sec. 107.** RCW 71.05.360 and 1997 c 112 s 30 are each amended to
10 read as follows:

11 (1)(a) Every person involuntarily detained or committed under the
12 provisions of this chapter shall be entitled to all the rights set
13 forth in this chapter, which shall be prominently posted in the
14 facility, and shall retain all rights not denied him or her under this
15 chapter except as chapter 9.41 RCW may limit the right of a person to
16 purchase or possess a firearm or to qualify for a concealed pistol
17 license.

18 (b) No person shall be presumed incompetent as a consequence of
19 receiving an evaluation or voluntary or involuntary treatment for a
20 mental disorder, under this chapter or any prior laws of this state
21 dealing with mental illness. Competency shall not be determined or
22 withdrawn except under the provisions of chapter 10.97 or 11.88 RCW.

23 (c) Any person who leaves a public or private agency following
24 evaluation or treatment for mental disorder shall be given a written
25 statement setting forth the substance of this section.

26 (2) Each person involuntarily detained or committed pursuant to
27 this chapter shall have the right to adequate care and individualized
28 treatment.

29 (3) The provisions of this chapter shall not be construed to deny
30 to any person treatment by spiritual means through prayer in accordance
31 with the tenets and practices of a church or religious denomination.

32 (4) Persons receiving evaluation or treatment under this chapter
33 shall be given a reasonable choice of an available physician or other
34 professional person qualified to provide such services.

35 (5) Whenever any person is detained for evaluation and treatment
36 pursuant to this chapter, both the person and, if possible, a
37 responsible member of his or her immediate family, personal

1 representative, guardian, or conservator, if any, shall be advised as
2 soon as possible in writing or orally, by the officer or person taking
3 him or her into custody or by personnel of the evaluation and treatment
4 facility where the person is detained that unless the person is
5 released or voluntarily admits himself or herself for treatment within
6 seventy-two hours of the initial detention:

7 (a) A judicial hearing in a superior court, either by a judge or
8 court commissioner thereof, shall be held not more than seventy-two
9 hours after the initial detention to determine whether there is
10 probable cause to detain the person after the seventy-two hours have
11 expired for up to an additional fourteen days without further automatic
12 hearing for the reason that the person is a person whose mental
13 disorder presents a likelihood of serious harm or that the person is
14 gravely disabled;

15 (b) The person has a right to communicate immediately with an
16 attorney; has a right to have an attorney appointed to represent him or
17 her before and at the probable cause hearing if he or she is indigent;
18 and has the right to be told the name and address of the attorney that
19 the mental health professional has designated pursuant to this chapter;

20 (c) The person has the right to remain silent and that any
21 statement he or she makes may be used against him or her;

22 (d) The person has the right to present evidence and to cross-
23 examine witnesses who testify against him or her at the probable cause
24 hearing; and

25 (e) The person has the right to refuse psychiatric medications,
26 including antipsychotic medication beginning twenty-four hours prior to
27 the probable cause hearing.

28 (6) When proceedings are initiated under RCW 71.05.150 (2), (3), or
29 (4)(b), no later than twelve hours after such person is admitted to the
30 evaluation and treatment facility the personnel of the evaluation and
31 treatment facility or the designated mental health professional shall
32 serve on such person a copy of the petition for initial detention and
33 the name, business address, and phone number of the designated attorney
34 and shall forthwith commence service of a copy of the petition for
35 initial detention on the designated attorney.

36 (7) The judicial hearing described in subsection (5) of this
37 section is hereby authorized, and shall be held according to the

1 provisions of subsection (5) of this section and rules promulgated by
2 the supreme court.

3 (8) At the probable cause hearing the detained person shall have
4 the following rights in addition to the rights previously specified:

5 (a) To present evidence on his or her behalf;

6 (b) To cross-examine witnesses who testify against him or her;

7 (c) To be proceeded against by the rules of evidence;

8 (d) To remain silent;

9 (e) To view and copy all petitions and reports in the court file.

10 (9) The physician-patient privilege or the psychologist-client
11 privilege shall be deemed waived in proceedings under this chapter
12 relating to the administration of antipsychotic medications. As to
13 other proceedings under this chapter, the privileges shall be waived
14 when a court of competent jurisdiction in its discretion determines
15 that such waiver is necessary to protect either the detained person or
16 the public.

17 The waiver of a privilege under this section is limited to records
18 or testimony relevant to evaluation of the detained person for purposes
19 of a proceeding under this chapter. Upon motion by the detained person
20 or on its own motion, the court shall examine a record or testimony
21 sought by a petitioner to determine whether it is within the scope of
22 the waiver.

23 The record maker shall not be required to testify in order to
24 introduce medical or psychological records of the detained person so
25 long as the requirements of RCW 5.45.020 are met except that portions
26 of the record which contain opinions as to the detained person's mental
27 state must be deleted from such records unless the person making such
28 conclusions is available for cross-examination.

29 (10) Insofar as danger to the person or others is not created, each
30 person involuntarily detained, treated in a less restrictive
31 alternative course of treatment, or committed for treatment and
32 evaluation pursuant to this chapter shall have, in addition to other
33 rights not specifically withheld by law, the following rights:

34 (a) To wear his or her own clothes and to keep and use his or her
35 own personal possessions, except when deprivation of same is essential
36 to protect the safety of the resident or other persons;

37 (b) To keep and be allowed to spend a reasonable sum of his or her
38 own money for canteen expenses and small purchases;

- 1 (c) To have access to individual storage space for his or her
2 private use;
- 3 (d) To have visitors at reasonable times;
- 4 (e) To have reasonable access to a telephone, both to make and
5 receive confidential calls, consistent with an effective treatment
6 program;
- 7 (f) To have ready access to letter writing materials, including
8 stamps, and to send and receive uncensored correspondence through the
9 mails;
- 10 (g) To discuss treatment plans and decisions with professional
11 persons;
- 12 (h) Not to consent to the administration of antipsychotic
13 medications and not to thereafter be administered antipsychotic
14 medications unless ordered by a court under RCW 71.05.370 (as
15 recodified by this act) or pursuant to an administrative hearing under
16 RCW 71.05.215;
- 17 (i) Not to consent to the performance of electroconvulsant therapy
18 or surgery, except emergency life-saving surgery, unless ordered by a
19 court under RCW 71.05.370 (as recodified by this act);
- 20 (j) Not to have psychosurgery performed on him or her under any
21 circumstances;
- 22 (k) To dispose of property and sign contracts unless such person
23 has been adjudicated an incompetent in a court proceeding directed to
24 that particular issue.
- 25 (11) Every person involuntarily detained shall immediately be
26 informed of his or her right to a hearing to review the legality of his
27 or her detention and of his or her right to counsel, by the
28 professional person in charge of the facility providing evaluation and
29 treatment, or his or her designee, and, when appropriate, by the court.
30 If the person so elects, the court shall immediately appoint an
31 attorney to assist him or her.
- 32 (12) A person challenging his or her detention or his or her
33 attorney, shall have the right to designate and have the court appoint
34 a reasonably available independent physician or licensed mental health
35 professional to examine the person detained, the results of which
36 examination may be used in the proceeding. The person shall, if he or
37 she is financially able, bear the cost of such expert information,
38 otherwise such expert examination shall be at public expense.

1 (13) Nothing contained in this chapter shall prohibit the patient
2 from petitioning by writ of habeas corpus for release.

3 (14) Nothing in this chapter shall prohibit a person committed on
4 or prior to January 1, 1974, from exercising a right available to him
5 or her at or prior to January 1, 1974, for obtaining release from
6 confinement.

7 (15) Nothing in this section permits any person to knowingly
8 violate a no-contact order or a condition of an active judgment and
9 sentence or an active condition of supervision by the department of
10 corrections.

11 NEW SECTION. Sec. 108. RCW 71.05.370 is recodified as a new
12 section in chapter 71.05 RCW to be codified in proximity to RCW
13 71.05.215.

14 **Sec. 109.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and
15 2004 c 33 s 2 are each reenacted and amended to read as follows:

16 Except as provided in this section, RCW 71.05.445, 71.05.630,
17 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the
18 fact of admission and all information and records compiled, obtained,
19 or maintained in the course of providing services to either voluntary
20 or involuntary recipients of services at public or private agencies
21 shall be confidential.

22 Information and records may be disclosed only:

23 (1) In communications between qualified professional persons to
24 meet the requirements of this chapter, in the provision of services or
25 appropriate referrals, or in the course of guardianship proceedings.
26 The consent of the ((patient)) person, or his or her personal
27 representative or guardian, shall be obtained before information or
28 records may be disclosed by a professional person employed by a
29 facility unless provided to a professional person:

- 30 (a) Employed by the facility;
31 (b) Who has medical responsibility for the patient's care;
32 (c) Who is a ((county)) designated mental health professional;
33 (d) Who is providing services under chapter 71.24 RCW;
34 (e) Who is employed by a state or local correctional facility where
35 the person is confined or supervised; or

1 (f) Who is providing evaluation, treatment, or follow-up services
2 under chapter 10.77 RCW.

3 (2) When the communications regard the special needs of a patient
4 and the necessary circumstances giving rise to such needs and the
5 disclosure is made by a facility providing (~~outpatient~~) services to
6 the operator of a (~~care~~) facility in which the patient resides or
7 will reside.

8 (3)(a) When the person receiving services, or his or her guardian,
9 designates persons to whom information or records may be released, or
10 if the person is a minor, when his or her parents make such
11 designation.

12 (b) A public or private agency shall release to a person's next of
13 kin, attorney, personal representative, guardian, or conservator, if
14 any:

15 (i) The information that the person is presently a patient in the
16 facility or that the person is seriously physically ill;

17 (ii) A statement evaluating the mental and physical condition of
18 the patient, and a statement of the probable duration of the patient's
19 confinement, if such information is requested by the next of kin,
20 attorney, personal representative, guardian, or conservator; and

21 (iii) Such other information requested by the next of kin or
22 attorney as may be necessary to decide whether or not proceedings
23 should be instituted to appoint a guardian or conservator.

24 (4) To the extent necessary for a recipient to make a claim, or for
25 a claim to be made on behalf of a recipient for aid, insurance, or
26 medical assistance to which he or she may be entitled.

27 (5)(a) For either program evaluation or research, or both:
28 PROVIDED, That the secretary adopts rules for the conduct of the
29 evaluation or research, or both. Such rules shall include, but need
30 not be limited to, the requirement that all evaluators and researchers
31 must sign an oath of confidentiality substantially as follows:

32 "As a condition of conducting evaluation or research concerning
33 persons who have received services from (fill in the facility, agency,
34 or person) I,, agree not to divulge, publish, or
35 otherwise make known to unauthorized persons or the public any
36 information obtained in the course of such evaluation or research
37 regarding persons who have received services such that the person who
38 received such services is identifiable.

1 I recognize that unauthorized release of confidential information
2 may subject me to civil liability under the provisions of state law.

3 /s/ "

4 (b) Nothing in this chapter shall be construed to prohibit the
5 compilation and publication of statistical data for use by government
6 or researchers under standards, including standards to assure
7 maintenance of confidentiality, set forth by the secretary.

8 (6)(a) To the courts as necessary to the administration of this
9 chapter or to a court ordering an evaluation or treatment under chapter
10 10.77 RCW solely for the purpose of preventing the entry of any
11 evaluation or treatment order that is inconsistent with any order
12 entered under this chapter.

13 (b) To a court or its designee in which a motion under chapter
14 10.77 RCW has been made for involuntary medication of a defendant for
15 the purpose of competency restoration.

16 (c) Disclosure under this subsection is mandatory for the purpose
17 of the health insurance portability and accountability act.

18 (7)(a) When a mental health professional is requested by a
19 representative of a law enforcement or corrections agency, including a
20 police officer, sheriff, community corrections officer, a municipal
21 attorney, or prosecuting attorney to undertake an investigation under
22 RCW 71.05.150, the mental health professional shall, if requested to do
23 so, advise the representative in writing of the results of the
24 investigation including a statement of reasons for the decision to
25 detain or release the person investigated. Such written report shall
26 be submitted within seventy-two hours of the completion of the
27 investigation or the request from the law enforcement or corrections
28 representative, whichever occurs later.

29 (b) To law enforcement officers, public health officers, or
30 personnel of the department of corrections or the indeterminate
31 sentence review board for persons who are the subject of the records
32 and who are committed to the custody or supervision of the department
33 of corrections or indeterminate sentence review board which information
34 or records are necessary to carry out the responsibilities of their
35 office. Except for dissemination of information released pursuant to

1 RCW 71.05.425 and 4.24.550, regarding persons committed under this
2 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of
3 a sex offense as defined in RCW 9.94A.030, the extent of information
4 that may be released is limited as follows:

5 ~~((a))~~ (i) Only the fact, place, and date of involuntary
6 commitment, the fact and date of discharge or release, and the last
7 known address shall be disclosed upon request;

8 ~~((b))~~ (ii) The law enforcement and public health officers or
9 personnel of the department of corrections or indeterminate sentence
10 review board shall be obligated to keep such information confidential
11 in accordance with this chapter;

12 ~~((c))~~ (iii) Additional information shall be disclosed only after
13 giving notice to said person and his or her counsel and upon a showing
14 of clear, cogent, and convincing evidence that such information is
15 necessary and that appropriate safeguards for strict confidentiality
16 are and will be maintained. However, in the event the said person has
17 escaped from custody, said notice prior to disclosure is not necessary
18 and that the facility from which the person escaped shall include an
19 evaluation as to whether the person is of danger to persons or property
20 and has a propensity toward violence;

21 ~~((d))~~ (iv) Information and records shall be disclosed to the
22 department of corrections pursuant to and in compliance with the
23 provisions of RCW 71.05.445 for the purposes of completing presentence
24 investigations or risk assessment reports, supervision of an
25 incarcerated offender or offender under supervision in the community,
26 planning for and provision of supervision of an offender, or assessment
27 of an offender's risk to the community; and

28 ~~((e))~~ (v) Disclosure under this subsection is mandatory for the
29 purposes of the health insurance portability and accountability act.

30 (8) To the attorney of the detained person.

31 (9) To the prosecuting attorney as necessary to carry out the
32 responsibilities of the office under RCW 71.05.330(2) and
33 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
34 to records regarding the committed person's treatment and prognosis,
35 medication, behavior problems, and other records relevant to the issue
36 of whether treatment less restrictive than inpatient treatment is in
37 the best interest of the committed person or others. Information shall

1 be disclosed only after giving notice to the committed person and the
2 person's counsel.

3 (10) To appropriate law enforcement agencies and to a person, when
4 the identity of the person is known to the public or private agency,
5 whose health and safety has been threatened, or who is known to have
6 been repeatedly harassed, by the patient. The person may designate a
7 representative to receive the disclosure. The disclosure shall be made
8 by the professional person in charge of the public or private agency or
9 his or her designee and shall include the dates of commitment,
10 admission, discharge, or release, authorized or unauthorized absence
11 from the agency's facility, and only such other information that is
12 pertinent to the threat or harassment. The decision to disclose or not
13 shall not result in civil liability for the agency or its employees so
14 long as the decision was reached in good faith and without gross
15 negligence.

16 (11) To appropriate corrections and law enforcement agencies all
17 necessary and relevant information in the event of a crisis or emergent
18 situation that poses a significant and imminent risk to the public.
19 The decision to disclose or not shall not result in civil liability for
20 the mental health service provider or its employees so long as the
21 decision was reached in good faith and without gross negligence.

22 (12) To the persons designated in RCW 71.05.425 for the purposes
23 described in that section.

24 (13) Civil liability and immunity for the release of information
25 about a particular person who is committed to the department under RCW
26 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
27 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

28 (14) (~~To a patient's next of kin, guardian, or conservator, if~~
29 ~~any, in the event of death, as provided in RCW 71.05.400.~~) Upon the
30 death of a person, his or her next of kin, personal representative,
31 guardian, or conservator, if any, shall be notified.

32 Next of kin who are of legal age and competent shall be notified
33 under this section in the following order: Spouse, parents, children,
34 brothers and sisters, and other relatives according to the degree of
35 relation. Access to all records and information compiled, obtained, or
36 maintained in the course of providing services to a deceased patient
37 shall be governed by RCW 70.02.140.

1 (15) To the department of health for the purposes of determining
2 compliance with state or federal licensure, certification, or
3 registration rules or laws. However, the information and records
4 obtained under this subsection are exempt from public inspection and
5 copying pursuant to chapter 42.17 RCW.

6 (16) To mark headstones or otherwise memorialize patients interred
7 at state hospital cemeteries. The department of social and health
8 services shall make available the name, date of birth, and date of
9 death of patients buried in state hospital cemeteries fifty years after
10 the death of a patient.

11 (17) When a patient would otherwise be subject to the provisions of
12 RCW 71.05.390 and disclosure is necessary for the protection of the
13 patient or others due to his or her unauthorized disappearance from the
14 facility, and his or her whereabouts is unknown, notice of such
15 disappearance, along with relevant information, may be made to
16 relatives, the department of corrections when the person is under the
17 supervision of the department, and governmental law enforcement
18 agencies designated by the physician in charge of the patient or the
19 professional person in charge of the facility, or his or her
20 professional designee.

21 Except as otherwise provided in this chapter, the uniform health
22 care information act, chapter 70.02 RCW, applies to all records and
23 information compiled, obtained, or maintained in the course of
24 providing services.

25 (18) The fact of admission, as well as all records, files,
26 evidence, findings, or orders made, prepared, collected, or maintained
27 pursuant to this chapter shall not be admissible as evidence in any
28 legal proceeding outside this chapter without the written consent of
29 the person who was the subject of the proceeding except in a subsequent
30 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
31 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
32 10.77 RCW due to incompetency to stand trial (~~(or)~~), in a civil
33 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of
34 a minor, a guardianship or dependency proceeding. The records and
35 files maintained in any court proceeding pursuant to this chapter shall
36 be confidential and available subsequent to such proceedings only to
37 the person who was the subject of the proceeding or his or her
38 attorney. In addition, the court may order the subsequent release or

1 use of such records or files only upon good cause shown if the court
2 finds that appropriate safeguards for strict confidentiality are and
3 will be maintained.

4 **Sec. 110.** RCW 71.05.420 and 1990 c 3 s 113 are each amended to
5 read as follows:

6 Except as provided in RCW 71.05.425, when any disclosure of
7 information or records is made as authorized by RCW 71.05.390 (~~through~~
8 ~~71.05.410~~), the physician in charge of the patient or the professional
9 person in charge of the facility shall promptly cause to be entered
10 into the patient's medical record the date and circumstances under
11 which said disclosure was made, the names and relationships to the
12 patient, if any, of the persons or agencies to whom such disclosure was
13 made, and the information disclosed.

14 **Sec. 111.** RCW 71.05.620 and 1989 c 205 s 12 are each amended to
15 read as follows:

16 ~~((1) Informed consent for disclosure of information from court or~~
17 ~~treatment records to an individual, agency, or organization must be in~~
18 ~~writing and must contain the following information:~~

19 ~~(a) The name of the individual, agency, or organization to which~~
20 ~~the disclosure is to be made;~~

21 ~~(b) The name of the individual whose treatment record is being~~
22 ~~disclosed;~~

23 ~~(c) The purpose or need for the disclosure;~~

24 ~~(d) The specific type of information to be disclosed;~~

25 ~~(e) The time period during which the consent is effective;~~

26 ~~(f) The date on which the consent is signed; and~~

27 ~~(g) The signature of the individual or person legally authorized to~~
28 ~~give consent for the individual.~~

29 ~~(2))~~ The files and records of court proceedings under this chapter
30 and chapters (~~(71.05))~~ 70.96A, 71.34, and 70.-- (sections 202 through
31 216 of this act) RCW shall be closed but shall be accessible to any
32 ~~((individual))~~ person who is the subject of a petition and to the
33 ~~((individual's))~~ person's attorney, guardian ad litem, resource
34 management services, or service providers authorized to receive such
35 information by resource management services.

1 **Sec. 112.** RCW 71.05.630 and 2000 c 75 s 5 are each amended to read
2 as follows:

3 (1) Except as otherwise provided by law, all treatment records
4 shall remain confidential(~~((an individual))~~) and may be released
5 only to the persons designated in this section, or to other persons
6 designated in an informed written consent of the patient.

7 (2) Treatment records of (~~(an individual))~~ a person may be released
8 without informed written consent in the following circumstances:

9 (a) To (~~(an individual))~~ a person, organization, or agency as
10 necessary for management or financial audits, or program monitoring and
11 evaluation. Information obtained under this subsection shall remain
12 confidential and may not be used in a manner that discloses the name or
13 other identifying information about the (~~(individual))~~ person whose
14 records are being released.

15 (b) To the department, the director of regional support networks,
16 or a qualified staff member designated by the director only when
17 necessary to be used for billing or collection purposes. The
18 information shall remain confidential.

19 (c) For purposes of research as permitted in chapter 42.48 RCW.

20 (d) Pursuant to lawful order of a court.

21 (e) To qualified staff members of the department, to the director
22 of regional support networks, to resource management services
23 responsible for serving a patient, or to service providers designated
24 by resource management services as necessary to determine the progress
25 and adequacy of treatment and to determine whether the person should be
26 transferred to a less restrictive or more appropriate treatment
27 modality or facility. The information shall remain confidential.

28 (f) Within the treatment facility where the patient is receiving
29 treatment, confidential information may be disclosed to (~~(individuals))~~
30 persons employed, serving in bona fide training programs, or
31 participating in supervised volunteer programs, at the facility when it
32 is necessary to perform their duties.

33 (g) Within the department as necessary to coordinate treatment for
34 mental illness, developmental disabilities, alcoholism, or drug abuse
35 of (~~(individuals))~~ persons who are under the supervision of the
36 department.

37 (h) To a licensed physician who has determined that the life or
38 health of the (~~(individual))~~ person is in danger and that treatment

1 without the information contained in the treatment records could be
2 injurious to the patient's health. Disclosure shall be limited to the
3 portions of the records necessary to meet the medical emergency.

4 (i) To a facility that is to receive (~~(an individual)~~) a person who
5 is involuntarily committed under chapter 71.05 RCW, or upon transfer of
6 the (~~(individual)~~) person from one treatment facility to another. The
7 release of records under this subsection shall be limited to the
8 treatment records required by law, a record or summary of all somatic
9 treatments, and a discharge summary. The discharge summary may include
10 a statement of the patient's problem, the treatment goals, the type of
11 treatment which has been provided, and recommendation for future
12 treatment, but may not include the patient's complete treatment record.

13 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a
14 correctional facility or a corrections officer who is responsible for
15 the supervision of (~~(an individual)~~) a person who is receiving
16 inpatient or outpatient evaluation or treatment. Except as provided in
17 RCW 71.05.445 and 71.34.225, release of records under this section is
18 limited to:

19 (i) An evaluation report provided pursuant to a written supervision
20 plan.

21 (ii) The discharge summary, including a record or summary of all
22 somatic treatments, at the termination of any treatment provided as
23 part of the supervision plan.

24 (iii) When (~~(an individual)~~) a person is returned from a treatment
25 facility to a correctional facility, the information provided under
26 (j)(iv) of this subsection.

27 (iv) Any information necessary to establish or implement changes in
28 the (~~(individual's)~~) person's treatment plan or the level or kind of
29 supervision as determined by resource management services. In cases
30 involving a person transferred back to a correctional facility,
31 disclosure shall be made to clinical staff only.

32 (k) To the (~~(individual's)~~) person's counsel or guardian ad litem,
33 without modification, at any time in order to prepare for involuntary
34 commitment or recommitment proceedings, reexaminations, appeals, or
35 other actions relating to detention, admission, commitment, or
36 patient's rights under chapter 71.05 RCW.

37 (l) To staff members of the protection and advocacy agency or to
38 staff members of a private, nonprofit corporation for the purpose of

1 protecting and advocating the rights of persons with mental ((~~illness~~))
2 disorders or developmental disabilities. Resource management services
3 may limit the release of information to the name, birthdate, and county
4 of residence of the patient, information regarding whether the patient
5 was voluntarily admitted, or involuntarily committed, the date and
6 place of admission, placement, or commitment, the name and address of
7 a guardian of the patient, and the date and place of the guardian's
8 appointment. Any staff member who wishes to obtain additional
9 information shall notify the patient's resource management services in
10 writing of the request and of the resource management services' right
11 to object. The staff member shall send the notice by mail to the
12 guardian's address. If the guardian does not object in writing within
13 fifteen days after the notice is mailed, the staff member may obtain
14 the additional information. If the guardian objects in writing within
15 fifteen days after the notice is mailed, the staff member may not
16 obtain the additional information.

17 (3) Whenever federal law or federal regulations restrict the
18 release of information contained in the treatment records of any
19 patient who receives treatment for ((~~alcoholism or drug~~)) chemical
20 dependency, the department may restrict the release of the information
21 as necessary to comply with federal law and regulations.

22 **Sec. 113.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to
23 read as follows:

24 (1) Procedures shall be established by resource management services
25 to provide reasonable and timely access to individual treatment
26 records. However, access may not be denied at any time to records of
27 all medications and somatic treatments received by the ((~~individual~~))
28 person.

29 (2) Following discharge, the ((~~individual~~)) person shall have a
30 right to a complete record of all medications and somatic treatments
31 prescribed during evaluation, admission, or commitment and to a copy of
32 the discharge summary prepared at the time of his or her discharge. A
33 reasonable and uniform charge for reproduction may be assessed.

34 (3) Treatment records may be modified prior to inspection to
35 protect the confidentiality of other patients or the names of any other
36 persons referred to in the record who gave information on the condition

1 that his or her identity remain confidential. Entire documents may not
2 be withheld to protect such confidentiality.

3 (4) At the time of discharge all (~~individuals~~) persons shall be
4 informed by resource management services of their rights as provided in
5 RCW (~~71.05.610~~) 71.05.390 and 71.05.620 through 71.05.690.

6 **Sec. 114.** RCW 71.05.660 and 1989 c 205 s 16 are each amended to
7 read as follows:

8 Nothing in this chapter (~~(205, Laws of 1989)~~) or chapter 70.96A,
9 71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall
10 be construed to interfere with communications between physicians or
11 psychologists and patients and attorneys and clients.

12 NEW SECTION. **Sec. 115.** A new section is added to chapter 71.05
13 RCW to read as follows:

14 A petition for commitment under this chapter may be joined with a
15 petition for commitment under chapter 70.96A RCW.

16 **PART II**
17 **PILOT PROGRAMS**

18 NEW SECTION. **Sec. 201.** Sections 202 through 216 of this act
19 constitute a new chapter in Title 70 RCW.

20 NEW SECTION. **Sec. 202.** The definitions in this section apply
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) "Admission" or "admit" means a decision by a physician that a
23 person should be examined or treated as a patient in a hospital, an
24 evaluation and treatment facility, or other inpatient facility, or a
25 decision by a professional person in charge or his or her designee that
26 a person should be detained as a patient for evaluation and treatment
27 in a secure detoxification facility or other certified chemical
28 dependency provider.

29 (2) "Antipsychotic medications" means that class of drugs primarily
30 used to treat serious manifestations of mental illness associated with
31 thought disorders, which includes but is not limited to atypical
32 antipsychotic medications.

1 (3) "Approved treatment program" means a discrete program of
2 chemical dependency treatment provided by a treatment program certified
3 by the department as meeting standards adopted under chapter 70.96A
4 RCW.

5 (4) "Attending staff" means any person on the staff of a public or
6 private agency having responsibility for the care and treatment of a
7 patient.

8 (5) "Chemical dependency" means:

9 (a) Alcoholism;

10 (b) Drug addiction; or

11 (c) Dependence on alcohol and one or more other psychoactive
12 chemicals, as the context requires.

13 (6) "Chemical dependency professional" means a person certified as
14 a chemical dependency professional by the department of health under
15 chapter 18.205 RCW.

16 (7) "Commitment" means the determination by a court that a person
17 should be detained for a period of either evaluation or treatment, or
18 both, in an inpatient or a less restrictive setting.

19 (8) "Conditional release" means a revocable modification of a
20 commitment that may be revoked upon violation of any of its terms.

21 (9) "Custody" means involuntary detention under either chapter
22 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of
23 unconditional release from commitment from a facility providing
24 involuntary care and treatment.

25 (10) "Department" means the department of social and health
26 services.

27 (11) "Designated chemical dependency specialist" or "specialist"
28 means a person designated by the county alcoholism and other drug
29 addiction program coordinator designated under RCW 70.96A.310 to
30 perform the commitment duties described in RCW 70.96A.140 and this
31 chapter, and qualified to do so by meeting standards adopted by the
32 department.

33 (12) "Designated crisis responder" means a person designated by the
34 county or regional support network to perform the duties specified in
35 this chapter.

36 (13) "Designated mental health professional" means a mental health
37 professional designated by the county or other authority authorized in
38 rule to perform the duties specified in this chapter.

1 (14) "Detention" or "detain" means the lawful confinement of a
2 person under this chapter, or chapter 70.96A or 71.05 RCW.

3 (15) "Developmental disabilities professional" means a person who
4 has specialized training and three years of experience in directly
5 treating or working with individuals with developmental disabilities
6 and is a psychiatrist, psychologist, or social worker, and such other
7 developmental disabilities professionals as may be defined by rules
8 adopted by the secretary.

9 (16) "Developmental disability" means that condition defined in RCW
10 71A.10.020.

11 (17) "Discharge" means the termination of facility authority. The
12 commitment may remain in place, be terminated, or be amended by court
13 order.

14 (18) "Evaluation and treatment facility" means any facility that
15 can provide directly, or by direct arrangement with other public or
16 private agencies, emergency evaluation and treatment, outpatient care,
17 and timely and appropriate inpatient care to persons suffering from a
18 mental disorder, and that is certified as such by the department. A
19 physically separate and separately operated portion of a state hospital
20 may be designated as an evaluation and treatment facility. A facility
21 that is part of, or operated by, the department or any federal agency
22 does not require certification. No correctional institution or
23 facility, or jail, may be an evaluation and treatment facility within
24 the meaning of this chapter.

25 (19) "Facility" means either an evaluation and treatment facility
26 or a secure detoxification facility.

27 (20) "Gravely disabled" means a condition in which a person, as a
28 result of a mental disorder, or as a result of the use of alcohol or
29 other psychoactive chemicals:

30 (a) Is in danger of serious physical harm resulting from a failure
31 to provide for his or her essential human needs of health or safety; or

32 (b) Manifests severe deterioration in routine functioning evidenced
33 by repeated and escalating loss of cognitive or volitional control over
34 his or her actions and is not receiving such care as is essential for
35 his or her health or safety.

36 (21) "History of one or more violent acts" refers to the period of
37 time ten years before the filing of a petition under this chapter, or
38 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any

1 violent acts committed, in a mental health facility or a long-term
2 alcoholism or drug treatment facility, or in confinement as a result of
3 a criminal conviction.

4 (22) "Intoxicated person" means a person whose mental or physical
5 functioning is substantially impaired as a result of the use of alcohol
6 or other psychoactive chemicals.

7 (23) "Judicial commitment" means a commitment by a court under this
8 chapter.

9 (24) "Licensed physician" means a person licensed to practice
10 medicine or osteopathic medicine and surgery in the state of
11 Washington.

12 (25) "Likelihood of serious harm" means:

13 (a) A substantial risk that:

14 (i) Physical harm will be inflicted by a person upon his or her own
15 person, as evidenced by threats or attempts to commit suicide or
16 inflict physical harm on oneself;

17 (ii) Physical harm will be inflicted by a person upon another, as
18 evidenced by behavior that has caused such harm or that places another
19 person or persons in reasonable fear of sustaining such harm; or

20 (iii) Physical harm will be inflicted by a person upon the property
21 of others, as evidenced by behavior that has caused substantial loss or
22 damage to the property of others; or

23 (b) The person has threatened the physical safety of another and
24 has a history of one or more violent acts.

25 (26) "Mental disorder" means any organic, mental, or emotional
26 impairment that has substantial adverse effects on a person's cognitive
27 or volitional functions.

28 (27) "Mental health professional" means a psychiatrist,
29 psychologist, psychiatric nurse, or social worker, and such other
30 mental health professionals as may be defined by rules adopted by the
31 secretary under the authority of chapter 71.05 RCW.

32 (28) "Peace officer" means a law enforcement official of a public
33 agency or governmental unit, and includes persons specifically given
34 peace officer powers by any state law, local ordinance, or judicial
35 order of appointment.

36 (29) "Person in charge" means a physician or chemical dependency
37 counselor as defined in rule by the department, who is empowered by a

1 certified treatment program with authority to make assessment,
2 admission, continuing care, and discharge decisions on behalf of the
3 certified program.

4 (30) "Private agency" means any person, partnership, corporation,
5 or association that is not a public agency, whether or not financed in
6 whole or in part by public funds, that constitutes an evaluation and
7 treatment facility or private institution, or hospital, or approved
8 treatment program, that is conducted for, or includes a department or
9 ward conducted for, the care and treatment of persons who are mentally
10 ill and/or chemically dependent.

11 (31) "Professional person" means a mental health professional or
12 chemical dependency professional and shall also mean a physician,
13 registered nurse, and such others as may be defined by rules adopted by
14 the secretary pursuant to the provisions of this chapter.

15 (32) "Psychiatrist" means a person having a license as a physician
16 and surgeon in this state who has in addition completed three years of
17 graduate training in psychiatry in a program approved by the American
18 medical association or the American osteopathic association and is
19 certified or eligible to be certified by the American board of
20 psychiatry and neurology.

21 (33) "Psychologist" means a person who has been licensed as a
22 psychologist under chapter 18.83 RCW.

23 (34) "Public agency" means any evaluation and treatment facility or
24 institution, or hospital, or approved treatment program that is
25 conducted for, or includes a department or ward conducted for, the care
26 and treatment of persons who are mentally ill and/or chemically
27 dependent, if the agency is operated directly by federal, state,
28 county, or municipal government, or a combination of such governments.

29 (35) "Registration records" means all the records of the
30 department, regional support networks, treatment facilities, and other
31 persons providing services to the department, county departments, or
32 facilities which identify persons who are receiving or who at any time
33 have received services for mental illness.

34 (36) "Release" means legal termination of the commitment under
35 chapter 70.96A or 71.05 RCW or this chapter.

36 (37) "Secretary" means the secretary of the department or the
37 secretary's designee.

1 (38) "Secure detoxification facility" means a facility operated by
2 either a public or private agency or by the program of an agency that
3 serves the purpose of providing evaluation and assessment, and acute
4 and/or subacute detoxification services for intoxicated persons and
5 includes security measures sufficient to protect the patients, staff,
6 and community.

7 (39) "Social worker" means a person with a master's or further
8 advanced degree from an accredited school of social work or a degree
9 deemed equivalent under rules adopted by the secretary.

10 (40) "Treatment records" means registration records and all other
11 records concerning persons who are receiving or who at any time have
12 received services for mental illness, which are maintained by the
13 department, by regional support networks and their staffs, and by
14 treatment facilities. Treatment records do not include notes or
15 records maintained for personal use by a person providing treatment
16 services for the department, regional support networks, or a treatment
17 facility if the notes or records are not available to others.

18 (41) "Violent act" means behavior that resulted in homicide,
19 attempted suicide, nonfatal injuries, or substantial damage to
20 property.

21 NEW SECTION. **Sec. 203.** (1) The secretary, after consulting with
22 the Washington state association of counties, shall select and contract
23 with regional support networks or counties to provide two integrated
24 crisis response and involuntary treatment pilot programs for adults and
25 shall allocate resources for both integrated services and secure
26 detoxification services in the pilot areas. In selecting the two
27 regional support networks or counties, the secretary shall endeavor to
28 site one in an urban and one in a rural regional support network or
29 county; and to site them in counties other than those selected pursuant
30 to section 220 of this act, to the extent necessary to facilitate
31 evaluation of pilot project results.

32 (2) The regional support networks or counties shall implement the
33 pilot programs by providing integrated crisis response and involuntary
34 treatment to persons with a chemical dependency, a mental disorder, or
35 both, consistent with this chapter. The pilot programs shall:

36 (a) Combine the crisis responder functions of a designated mental
37 health professional under chapter 71.05 RCW and a designated chemical

1 dependency specialist under chapter 70.96A RCW by establishing a new
2 designated crisis responder who is authorized to conduct investigations
3 and detain persons up to seventy-two hours to the proper facility;

4 (b) Provide training to the crisis responders as required by the
5 department;

6 (c) Provide sufficient staff and resources to ensure availability
7 of an adequate number of crisis responders twenty-four hours a day,
8 seven days a week;

9 (d) Provide the administrative and court-related staff, resources,
10 and processes necessary to facilitate the legal requirements of the
11 initial detention and the commitment hearings for persons with a
12 chemical dependency;

13 (e) Participate in the evaluation and report to assess the outcomes
14 of the pilot programs including providing data and information as
15 requested;

16 (f) Provide the other services necessary to the implementation of
17 the pilot programs, consistent with this chapter as determined by the
18 secretary in contract; and

19 (g) Collaborate with the department of corrections where persons
20 detained or committed are also subject to supervision by the department
21 of corrections.

22 (3) The pilot programs established by this section shall begin
23 providing services by March 1, 2006.

24 NEW SECTION. **Sec. 204.** To qualify as a designated crisis
25 responder, a person must have received chemical dependency training as
26 determined by the department and be a:

27 (1) Psychiatrist, psychologist, psychiatric nurse, or social
28 worker;

29 (2) Person with a master's degree or further advanced degree in
30 counseling or one of the social sciences from an accredited college or
31 university and who have, in addition, at least two years of experience
32 in direct treatment of persons with mental illness or emotional
33 disturbance, such experience gained under the direction of a mental
34 health professional;

35 (3) Person who meets the waiver criteria of RCW 71.24.260, which
36 waiver was granted before 1986;

1 (4) Person who had an approved waiver to perform the duties of a
2 mental health professional that was requested by the regional support
3 network and granted by the department before July 1, 2001; or

4 (5) Person who has been granted a time-limited exception of the
5 minimum requirements of a mental health professional by the department
6 consistent with rules adopted by the secretary.

7 NEW SECTION. **Sec. 205.** In addition to the provisions of this
8 chapter, a designated crisis responder has all the powers and duties of
9 a designated mental health professional as well as the powers and
10 duties of a designated chemical dependency specialist under RCW
11 70.96A.120.

12 NEW SECTION. **Sec. 206.** (1)(a) When a designated crisis responder
13 receives information alleging that a person, as a result of a mental
14 disorder, chemical dependency disorder, or both, presents a likelihood
15 of serious harm or is gravely disabled, the designated crisis responder
16 may, after investigation and evaluation of the specific facts alleged
17 and of the reliability and credibility of any person providing
18 information to initiate detention, if satisfied that the allegations
19 are true and that the person will not voluntarily seek appropriate
20 treatment, file a petition for initial detention. Before filing the
21 petition, the designated crisis responder must personally interview the
22 person, unless the person refuses an interview, and determine whether
23 the person will voluntarily receive appropriate evaluation and
24 treatment at either an evaluation and treatment facility, a
25 detoxification facility, or other certified chemical dependency
26 provider.

27 (b)(i)(A) Whenever it appears, by petition for initial detention,
28 to the satisfaction of a judge of the superior court that a person
29 presents as a result of a mental disorder, a likelihood of serious
30 harm, or is gravely disabled, and that the person has refused or failed
31 to accept appropriate evaluation and treatment voluntarily, the judge
32 may issue an order requiring the person to appear within twenty-four
33 hours after service of the order at a designated evaluation and
34 treatment facility for not more than a seventy-two hour evaluation and
35 treatment period; or

1 (B) Whenever it appears, by petition for initial detention, to the
2 satisfaction of a judge of the superior court, district court, or other
3 court permitted by court rule, that a person presents as a result of a
4 chemical dependency, a likelihood of serious harm, or is gravely
5 disabled, and that the person has refused or failed to accept
6 appropriate evaluation and treatment voluntarily, the judge may issue
7 an order requiring the person to appear within twenty-four hours after
8 service of the order at a secure detoxification facility or other
9 certified chemical dependency provider for not more than a seventy-two
10 hour evaluation and treatment period.

11 (ii) The order issued under this subsection (1)(b) shall state the
12 address of the evaluation and treatment facility, secure detoxification
13 facility, or other certified chemical dependency provider to which the
14 person is to report; whether the required seventy-two hour evaluation
15 and treatment services may be delivered on an outpatient or inpatient
16 basis; and that if the person named in the order fails to appear at the
17 evaluation and treatment facility, secure detoxification facility, or
18 other certified chemical dependency provider at or before the date and
19 time stated in the order, the person may be involuntarily taken into
20 custody for evaluation and treatment. The order shall also designate
21 retained counsel or, if counsel is appointed from a list provided by
22 the court, the name, business address, and telephone number of the
23 attorney appointed to represent the person.

24 (c) The designated crisis responder shall then serve or cause to be
25 served on such person, his or her guardian, and conservator, if any, a
26 copy of the order to appear, together with a notice of rights and a
27 petition for initial detention. After service on the person, the
28 designated crisis responder shall file the return of service in court
29 and provide copies of all papers in the court file to the evaluation
30 and treatment facility or secure detoxification facility and the
31 designated attorney. The designated crisis responder shall notify the
32 court and the prosecuting attorney that a probable cause hearing will
33 be held within seventy-two hours of the date and time of outpatient
34 evaluation or admission to the evaluation and treatment facility,
35 secure detoxification facility, or other certified chemical dependency
36 provider. The person shall be permitted to remain in his or her home
37 or other place of his or her choosing before the time of evaluation and
38 shall be permitted to be accompanied by one or more of his or her

1 relatives, friends, an attorney, a personal physician, or other
2 professional or religious advisor to the place of evaluation. An
3 attorney accompanying the person to the place of evaluation shall be
4 permitted to be present during the admission evaluation. Any other
5 person accompanying the person may be present during the admission
6 evaluation. The facility may exclude the person if his or her presence
7 would present a safety risk, delay the proceedings, or otherwise
8 interfere with the evaluation.

9 (d) If the person ordered to appear does appear on or before the
10 date and time specified, the evaluation and treatment facility, secure
11 detoxification facility, or other certified chemical dependency
12 provider may admit the person as required by subsection (3) of this
13 section or may provide treatment on an outpatient basis. If the person
14 ordered to appear fails to appear on or before the date and time
15 specified, the evaluation and treatment facility, secure detoxification
16 facility, or other certified chemical dependency provider shall
17 immediately notify the designated crisis responder who may notify a
18 peace officer to take the person or cause the person to be taken into
19 custody and placed in an evaluation and treatment facility, a secure
20 detoxification facility, or other certified chemical dependency
21 provider. Should the designated crisis responder notify a peace
22 officer authorizing the officer to take a person into custody under
23 this subsection, the designated crisis responder shall file with the
24 court a copy of the authorization and a notice of detention. At the
25 time the person is taken into custody there shall commence to be served
26 on the person, his or her guardian, and conservator, if any, a copy of
27 the original order together with a notice of detention, a notice of
28 rights, and a petition for initial detention.

29 (2) If a designated crisis responder receives information alleging
30 that a person, as the result of:

31 (a) A mental disorder, presents an imminent likelihood of serious
32 harm, or is in imminent danger because of being gravely disabled, after
33 investigation and evaluation of the specific facts alleged and of the
34 reliability and credibility of the person or persons providing the
35 information if any, the designated crisis responder may take the
36 person, or cause by oral or written order the person to be taken into
37 emergency custody in an evaluation and treatment facility for not more
38 than seventy-two hours as described in this chapter; or

1 (b) Chemical dependency, presents an imminent likelihood of serious
2 harm, or is in imminent danger because of being gravely disabled, after
3 investigation and evaluation of the specific facts alleged and of the
4 reliability and credibility of the person or persons providing the
5 information if any, the designated crisis responder may take the
6 person, or cause by oral or written order the person to be taken into
7 emergency custody in a secure detoxification facility for not more than
8 seventy-two hours as described in this chapter.

9 (3) If the designated crisis responder petitions for detention of
10 a person whose actions constitute a likelihood of serious harm, or who
11 is gravely disabled, the evaluation and treatment facility, the secure
12 detoxification facility, or other certified chemical dependency
13 provider providing seventy-two hour evaluation and treatment must
14 immediately accept on a provisional basis the petition and the person.
15 The evaluation and treatment facility, the secure detoxification
16 facility, or other certified chemical dependency provider shall then
17 evaluate the person's condition and admit, detain, transfer, or
18 discharge such person in accordance with this chapter. The facility
19 shall notify in writing the court and the designated crisis responder
20 of the date and time of the initial detention of each person
21 involuntarily detained so that a probable cause hearing will be held no
22 later than seventy-two hours after detention.

23 (4) A peace officer may, without prior notice of the proceedings
24 provided for in subsection (1) of this section, take or cause the
25 person to be taken into custody and immediately delivered to an
26 evaluation and treatment facility, secure detoxification facility,
27 other certified chemical dependency treatment provider only pursuant to
28 subsections (1)(d) and (2) of this section.

29 (5) Nothing in this chapter limits the power of a peace officer to
30 take a person into custody and immediately deliver the person to the
31 emergency department of a local hospital or to a detoxification
32 facility.

33 NEW SECTION. **Sec. 207.** (1) A person or public or private entity
34 employing a person is not civilly or criminally liable for performing
35 duties under this chapter if the duties were performed in good faith
36 and without gross negligence.

1 (2) This section does not relieve a person from giving the required
2 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
3 or to take reasonable precautions to provide protection from violent
4 behavior where the patient has communicated an actual threat of
5 physical violence against a reasonably identifiable victim or victims.
6 The duty to warn or to take reasonable precautions to provide
7 protection from violent behavior is discharged if reasonable efforts
8 are made to communicate the threat to the victim or victims and to law
9 enforcement personnel.

10 NEW SECTION. **Sec. 208.** If the evaluation and treatment facility,
11 secure detoxification facility, or other certified chemical dependency
12 provider admits the person, it may detain the person for evaluation and
13 treatment for a period not to exceed seventy-two hours from the time of
14 acceptance. The computation of the seventy-two hour period excludes
15 Saturdays, Sundays, and holidays.

16 NEW SECTION. **Sec. 209.** Whenever any person is detained for
17 evaluation and treatment for a mental disorder under section 206 of
18 this act, chapter 71.05 RCW applies.

19 NEW SECTION. **Sec. 210.** (1) A person detained for seventy-two hour
20 evaluation and treatment under section 206 of this act or RCW
21 70.96A.120 may be detained for not more than fourteen additional days
22 of involuntary chemical dependency treatment if there are beds
23 available at the secure detoxification facility and the following
24 conditions are met:

25 (a) The professional person in charge of the agency or facility or
26 the person's designee providing evaluation and treatment services in a
27 secure detoxification facility has assessed the person's condition and
28 finds that the condition is caused by chemical dependency and either
29 results in a likelihood of serious harm or in the detained person being
30 gravely disabled, and the professional person or his or her designee is
31 prepared to testify those conditions are met;

32 (b) The person has been advised of the need for voluntary treatment
33 and the professional person in charge of the agency or facility or his
34 or her designee has evidence that he or she has not in good faith
35 volunteered for treatment; and

1 (c) The professional person in charge of the agency or facility or
2 the person's designee has filed a petition for fourteen-day involuntary
3 detention with the superior court, district court, or other court
4 permitted by court rule. The petition must be signed by the chemical
5 dependency professional who has examined the person.

6 (2) The petition under subsection (1)(c) of this section shall be
7 accompanied by a certificate of a licensed physician who has examined
8 the person, unless the person whose commitment is sought has refused to
9 submit to a medical examination, in which case the fact of refusal
10 shall be alleged in the petition. The certificate shall set forth the
11 licensed physician's findings in support of the allegations of the
12 petition. A physician employed by the petitioning program or the
13 department is eligible to be the certifying physician.

14 (3) The petition shall state facts that support the finding that
15 the person, as a result of chemical dependency, presents a likelihood
16 of serious harm or is gravely disabled, and that there are no less
17 restrictive alternatives to detention in the best interest of the
18 person or others. The petition shall state specifically that less
19 restrictive alternative treatment was considered and specify why
20 treatment less restrictive than detention is not appropriate.

21 (4) A copy of the petition shall be served on the detained person,
22 his or her attorney, and his or her guardian or conservator, if any,
23 before the probable cause hearing.

24 (5)(a) The court shall inform the person whose commitment is sought
25 of his or her right to contest the petition, be represented by counsel
26 at every stage of any proceedings relating to his or her commitment,
27 and have counsel appointed by the court or provided by the court, if he
28 or she wants the assistance of counsel and is unable to obtain counsel.
29 If the court believes that the person needs the assistance of counsel,
30 the court shall require, by appointment if necessary, counsel for him
31 or her regardless of his or her wishes. The person shall, if he or she
32 is financially able, bear the costs of such legal service; otherwise
33 such legal service shall be at public expense. The person whose
34 commitment is sought shall be informed of his or her right to be
35 examined by a licensed physician of his or her choice. If the person
36 is unable to obtain a licensed physician and requests examination by a
37 physician, the court shall appoint a reasonably available licensed
38 physician designated by the person.

1 (b) At the conclusion of the probable cause hearing, if the court
2 finds by a preponderance of the evidence that the person, as the result
3 of chemical dependency, presents a likelihood of serious harm or is
4 gravely disabled and, after considering less restrictive alternatives
5 to involuntary detention and treatment, finds that no such alternatives
6 are in the best interest of such person or others, the court shall
7 order that the person be detained for involuntary chemical dependency
8 treatment not to exceed fourteen days in a secure detoxification
9 facility.

10 NEW SECTION. **Sec. 211.** If a person is detained for additional
11 treatment beyond fourteen days under section 210 of this act, the
12 professional staff of the agency or facility may petition for
13 additional treatment under RCW 70.96A.140.

14 NEW SECTION. **Sec. 212.** The prosecuting attorney of the county in
15 which an action under this chapter is taken must represent the
16 petitioner in judicial proceedings under this chapter for the
17 involuntary chemical dependency treatment of a person, including any
18 judicial proceeding where the person sought to be treated for chemical
19 dependency challenges the action.

20 NEW SECTION. **Sec. 213.** (1) Every person involuntarily detained or
21 committed under this chapter as a result of a mental disorder is
22 entitled to all the rights set forth in this chapter and in chapter
23 71.05 RCW, and retains all rights not denied him or her under this
24 chapter or chapter 71.05 RCW.

25 (2) Every person involuntarily detained or committed under this
26 chapter as a result of a chemical dependency is entitled to all the
27 rights set forth in this chapter and chapter 70.96A RCW, and retains
28 all rights not denied him or her under this chapter or chapter 70.96A
29 RCW.

30 NEW SECTION. **Sec. 214.** (1) When a designated crisis responder is
31 notified by a jail that a defendant or offender who was subject to a
32 discharge review under RCW 71.05.232 is to be released to the
33 community, the designated crisis responder shall evaluate the person
34 within seventy-two hours of release.

1 (2) When an offender is under court-ordered treatment in the
2 community and the supervision of the department of corrections, and the
3 treatment provider becomes aware that the person is in violation of the
4 terms of the court order, the treatment provider shall notify the
5 designated crisis responder of the violation and request an evaluation
6 for purposes of revocation of the less restrictive alternative.

7 (3) When a designated crisis responder becomes aware that an
8 offender who is under court-ordered treatment in the community and the
9 supervision of the department of corrections is in violation of a
10 treatment order or a condition of supervision that relates to public
11 safety, or the designated crisis responder detains a person under this
12 chapter, the designated crisis responder shall notify the person's
13 treatment provider and the department of corrections.

14 (4) When an offender who is confined in a state correctional
15 facility or is under supervision of the department of corrections in
16 the community is subject to a petition for involuntary treatment under
17 this chapter, the petitioner shall notify the department of corrections
18 and the department of corrections shall provide documentation of its
19 risk assessment or other concerns to the petitioner and the court if
20 the department of corrections classified the offender as a high risk or
21 high needs offender.

22 (5) Nothing in this section creates a duty on any treatment
23 provider or designated crisis responder to provide offender
24 supervision.

25 NEW SECTION. **Sec. 215.** The secretary may adopt rules to implement
26 this chapter.

27 NEW SECTION. **Sec. 216.** The provisions of RCW 71.05.550 apply to
28 this chapter.

29 NEW SECTION. **Sec. 217.** (1) The Washington state institute for
30 public policy shall evaluate the pilot programs and make a preliminary
31 report to appropriate committees of the legislature by December 1,
32 2007, and a final report by September 30, 2008.

33 (2) The evaluation of the pilot programs shall include:

34 (a) Whether the designated crisis responder pilot program:

1 (i) Has increased efficiency of evaluation and treatment of persons
2 involuntarily detained for seventy-two hours;

3 (ii) Is cost-effective;

4 (iii) Results in better outcomes for persons involuntarily
5 detained;

6 (iv) Increased the effectiveness of the crisis response system in
7 the pilot catchment areas;

8 (b) The effectiveness of providing a single chapter in the Revised
9 Code of Washington to address initial detention of persons with mental
10 disorders or chemical dependency, in crisis response situations and the
11 likelihood of effectiveness of providing a single, comprehensive
12 involuntary treatment act.

13 (3) The reports shall consider the impact of the pilot programs on
14 the existing mental health system and on the persons served by the
15 system.

16 **Sec. 218.** RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each
17 amended to read as follows:

18 The department of social and health services, in planning and
19 providing funding to counties pursuant to chapter 71.24 RCW, shall
20 recognize the financial necessities imposed upon counties by
21 implementation of this chapter and chapter 70.-- RCW (sections 202
22 through 216 of this act), and shall consider needs, if any, for
23 additional community mental health services and facilities and
24 reduction in commitments to state hospitals for the mentally ill
25 accomplished by individual counties, in planning and providing such
26 funding. The state shall provide financial assistance to the counties
27 to enable the counties to meet all increased costs, if any, to the
28 counties resulting from their administration of the provisions of
29 chapter 142, Laws of 1973 1st ex. sess.

30 NEW SECTION. **Sec. 219.** Sections 202 through 216 of this act
31 expire July 1, 2008.

32 NEW SECTION. **Sec. 220.** A new section is added to chapter 70.96A
33 RCW to read as follows:

34 (1) The secretary shall select and contract with counties to
35 provide intensive case management for chemically dependent persons with

1 histories of high utilization of crisis services at two sites. In
2 selecting the two sites, the secretary shall endeavor to site one in an
3 urban county, and one in a rural county; and to site them in counties
4 other than those selected pursuant to section 203 of this act, to the
5 extent necessary to facilitate evaluation of pilot project results.

6 (2) The contracted sites shall implement the pilot programs by
7 providing intensive case management to persons with a primary chemical
8 dependency diagnosis or dual primary chemical dependency and mental
9 health diagnoses, through the employment of chemical dependency case
10 managers. The chemical dependency case managers shall:

11 (a) Be trained in and use the integrated, comprehensive screening
12 and assessment process adopted under section 601 of this act;

13 (b) Reduce the use of crisis medical, chemical dependency and
14 mental health services, including but not limited to, emergency room
15 admissions, hospitalizations, detoxification programs, inpatient
16 psychiatric admissions, involuntary treatment petitions, emergency
17 medical services, and ambulance services;

18 (c) Reduce the use of emergency first responder services including
19 police, fire, emergency medical, and ambulance services;

20 (d) Reduce the number of criminal justice interventions including
21 arrests, violations of conditions of supervision, bookings, jail days,
22 prison sanction day for violations, court appearances, and prosecutor
23 and defense costs;

24 (e) Where appropriate and available, work with therapeutic courts
25 including drug courts and mental health courts to maximize the outcomes
26 for the individual and reduce the likelihood of reoffense;

27 (f) Coordinate with local offices of the economic services
28 administration to assist the person in accessing and remaining enrolled
29 in those programs to which the person may be entitled;

30 (g) Where appropriate and available, coordinate with primary care
31 and other programs operated through the federal government including
32 federally qualified health centers, Indian health programs, and
33 veterans' health programs for which the person is eligible to reduce
34 duplication of services and conflicts in case approach;

35 (h) Where appropriate, advocate for the client's needs to assist
36 the person in achieving and maintaining stability and progress toward
37 recovery;

1 (i) Document the numbers of persons with co-occurring mental and
2 substance abuse disorders and the point of determination of the co-
3 occurring disorder by quadrant of intensity of need; and

4 (j) Where a program participant is under supervision by the
5 department of corrections, collaborate with the department of
6 corrections to maximize treatment outcomes and reduce the likelihood of
7 reoffense.

8 (3) The pilot programs established by this section shall begin
9 providing services by March 1, 2006.

10 (4) This section expires June 30, 2008.

11 **PART III**
12 **TREATMENT GAP**

13 NEW SECTION. **Sec. 301.** A new section is added to chapter 70.96A
14 RCW to read as follows:

15 (1) The division of alcohol and substance abuse shall increase its
16 capacity to serve adults who meet chemical dependency treatment
17 criteria and who are enrolled in medicaid as follows:

18 (a) In fiscal year 2006, the division of alcohol and substance
19 abuse shall serve forty percent of the calculated need; and

20 (b) In fiscal year 2007, the division of alcohol and substance
21 abuse shall serve sixty percent of the calculated need.

22 (2) The division of alcohol and substance abuse shall increase its
23 capacity to serve minors who have passed their twelfth birthday and who
24 are not yet eighteen, who are under two hundred percent of the federal
25 poverty level as follows:

26 (a) In fiscal year 2006, the division of alcohol and substance
27 abuse shall serve forty percent of the calculated need; and

28 (b) In fiscal year 2007, the division of alcohol and substance
29 abuse shall serve sixty percent of the calculated need.

30 (3) For purposes of this section, "calculated need" means the
31 percentage of the population under two hundred percent of the federal
32 poverty level in need of chemical dependency services as determined in
33 the 2003 Washington state needs assessment study.

34 NEW SECTION. **Sec. 302.** A new section is added to chapter 70.96A
35 RCW to read as follows:

1 (1) Not later than January 1, 2007, all persons providing treatment
2 under this chapter shall also implement the integrated comprehensive
3 screening and assessment process for chemical dependency and mental
4 disorders adopted pursuant to section 601 of this act and shall
5 document the numbers of clients with co-occurring mental and substance
6 abuse disorders based on a quadrant system of low and high needs.

7 (2) Treatment providers contracted to provide treatment under this
8 chapter who fail to implement the integrated comprehensive screening
9 and assessment process for chemical dependency and mental disorders by
10 July 1, 2007, are subject to contractual penalties established under
11 section 601 of this act.

12 NEW SECTION. **Sec. 303.** A new section is added to chapter 13.34
13 RCW to read as follows:

14 The department of social and health services and the department of
15 health shall develop and expand comprehensive services for drug-
16 affected and alcohol-affected mothers and infants. Subject to funds
17 appropriated for this purpose, the expansion shall be in evidence-
18 based, research-based, or consensus-based practices, as those terms are
19 defined in section 603 of this act, and shall expand capacity in
20 underserved regions of the state.

21 NEW SECTION. **Sec. 304.** A new section is added to chapter 70.96A
22 RCW to read as follows:

23 A petition for commitment under this chapter may be joined with a
24 petition for commitment under chapter 71.05 RCW.

25 NEW SECTION. **Sec. 305.** A new section is added to chapter 70.96A
26 RCW to read as follows:

27 (1) The department of social and health services shall contract for
28 chemical dependency specialist services at each division of children
29 and family services office to enhance the timeliness and quality of
30 child protective services assessments and to better connect families to
31 needed treatment services.

32 (2) The chemical dependency specialist's duties may include, but
33 are not limited to: Conducting on-site chemical dependency screening
34 and assessment, facilitating progress reports to department social
35 workers, in-service training of department social workers and staff on

1 substance abuse issues, referring clients from the department to
2 treatment providers, and providing consultation on cases to department
3 social workers.

4 (3) The department of social and health services shall provide
5 training in and ensure that each case-carrying social worker is trained
6 in uniform screening for mental health and chemical dependency.

7 **PART IV**
8 **RESOURCES**

9 NEW SECTION. **Sec. 401.** Sections 402 through 425 of this act
10 constitute a new chapter in Title 70 RCW.

11 NEW SECTION. **Sec. 402.** The legislature finds that there are
12 persons with mental disorders, including organic or traumatic brain
13 disorders, and combinations of mental disorders with other medical
14 conditions or behavior histories that result in behavioral and security
15 issues that make these persons ineligible for, or unsuccessful in,
16 existing types of licensed facilities, including adult residential
17 rehabilitation centers, boarding homes, adult family homes, group
18 homes, and skilled nursing facilities. The legislature also finds that
19 many of these persons have been treated on repeated occasions in
20 inappropriate acute care facilities and released without an appropriate
21 placement or have been treated or detained for extended periods in
22 inappropriate settings including state hospitals and correctional
23 facilities. The legislature further finds that some of these persons
24 present complex safety and treatment issues that require security
25 measures that cannot be instituted under most facility licenses or
26 supported housing programs. These include the ability to detain
27 persons under involuntary treatment orders or administer court ordered
28 medications.

29 Consequently, the legislature intends, to the extent of available
30 funds, to establish a new type of facility licensed by the department
31 of social and health services as an enhanced services facility with
32 standards that will provide a safe, secure treatment environment for a
33 limited population of persons who are not appropriately served in other
34 facilities or programs. The legislature also finds that enhanced

1 services facilities may need to specialize in order to effectively care
2 for a particular segment of the identified population.

3 An enhanced services facility may only serve individuals that meet
4 the criteria specified in section 405 of this act.

5 NEW SECTION. **Sec. 403.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Antipsychotic medications" means that class of drugs primarily
8 used to treat serious manifestations of mental illness associated with
9 thought disorders, which includes but is not limited to atypical
10 antipsychotic medications.

11 (2) "Attending staff" means any person on the staff of a public or
12 private agency having responsibility for the care and treatment of a
13 patient.

14 (3) "Chemical dependency" means alcoholism, drug addiction, or
15 dependence on alcohol and one or more other psychoactive chemicals, as
16 the context requires and as those terms are defined in chapter 70.96A
17 RCW.

18 (4) "Chemical dependency professional" means a person certified as
19 a chemical dependency professional by the department of health under
20 chapter 18.205 RCW.

21 (5) "Commitment" means the determination by a court that an
22 individual should be detained for a period of either evaluation or
23 treatment, or both, in an inpatient or a less restrictive setting.

24 (6) "Conditional release" means a modification of a commitment that
25 may be revoked upon violation of any of its terms.

26 (7) "Custody" means involuntary detention under chapter 71.05 or
27 70.96A RCW, uninterrupted by any period of unconditional release from
28 commitment from a facility providing involuntary care and treatment.

29 (8) "Department" means the department of social and health
30 services.

31 (9) "Designated responder" means a designated mental health
32 professional, a designated chemical dependency specialist, or a
33 designated crisis responder as those terms are defined in chapter
34 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

35 (10) "Detention" or "detain" means the lawful confinement of an
36 individual under chapter 70.96A or 71.05 RCW.

1 (11) "Discharge" means the termination of facility authority. The
2 commitment may remain in place, be terminated, or be amended by court
3 order.

4 (12) "Enhanced services facility" means a facility that provides
5 treatment and services to persons for whom acute inpatient treatment is
6 not medically necessary and who have been determined by the department
7 to be inappropriate for placement in other licensed facilities due to
8 the complex needs that result in behavioral and security issues.

9 (13) "Expanded community services program" means a nonsecure
10 program of enhanced behavioral and residential support provided to
11 long-term and residential care providers serving specifically eligible
12 clients who would otherwise be at risk for hospitalization at state
13 hospital geriatric units.

14 (14) "Facility" means an enhanced services facility.

15 (15) "Gravely disabled" means a condition in which an individual,
16 as a result of a mental disorder, as a result of the use of alcohol or
17 other psychoactive chemicals, or both:

18 (a) Is in danger of serious physical harm resulting from a failure
19 to provide for his or her essential human needs of health or safety; or

20 (b) Manifests severe deterioration in routine functioning evidenced
21 by repeated and escalating loss of cognitive or volitional control over
22 his or her actions and is not receiving such care as is essential for
23 his or her health or safety.

24 (16) "History of one or more violent acts" refers to the period of
25 time ten years before the filing of a petition under this chapter, or
26 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any
27 violent acts committed, in a mental health facility or a long-term
28 alcoholism or drug treatment facility, or in confinement as a result of
29 a criminal conviction.

30 (17) "Licensed physician" means a person licensed to practice
31 medicine or osteopathic medicine and surgery in the state of
32 Washington.

33 (18) "Likelihood of serious harm" means:

34 (a) A substantial risk that:

35 (i) Physical harm will be inflicted by an individual upon his or
36 her own person, as evidenced by threats or attempts to commit suicide
37 or inflict physical harm on oneself;

1 (ii) Physical harm will be inflicted by an individual upon another,
2 as evidenced by behavior that has caused such harm or that places
3 another person or persons in reasonable fear of sustaining such harm;
4 or

5 (iii) Physical harm will be inflicted by an individual upon the
6 property of others, as evidenced by behavior that has caused
7 substantial loss or damage to the property of others; or

8 (b) The individual has threatened the physical safety of another
9 and has a history of one or more violent acts.

10 (19) "Mental disorder" means any organic, mental, or emotional
11 impairment that has substantial adverse effects on an individual's
12 cognitive or volitional functions.

13 (20) "Mental health professional" means a psychiatrist,
14 psychologist, psychiatric nurse, or social worker, and such other
15 mental health professionals as may be defined by rules adopted by the
16 secretary under the authority of chapter 71.05 RCW.

17 (21) "Professional person" means a mental health professional and
18 also means a physician, registered nurse, and such others as may be
19 defined in rules adopted by the secretary pursuant to the provisions of
20 this chapter.

21 (22) "Psychiatrist" means a person having a license as a physician
22 and surgeon in this state who has in addition completed three years of
23 graduate training in psychiatry in a program approved by the American
24 medical association or the American osteopathic association and is
25 certified or eligible to be certified by the American board of
26 psychiatry and neurology.

27 (23) "Psychologist" means a person who has been licensed as a
28 psychologist under chapter 18.83 RCW.

29 (24) "Registration records" include all the records of the
30 department, regional support networks, treatment facilities, and other
31 persons providing services to the department, county departments, or
32 facilities which identify individuals who are receiving or who at any
33 time have received services for mental illness.

34 (25) "Release" means legal termination of the commitment under
35 chapter 70.96A or 71.05 RCW.

36 (26) "Resident" means a person admitted to an enhanced services
37 facility.

1 (27) "Secretary" means the secretary of the department or the
2 secretary's designee.

3 (28) "Significant change" means:

4 (a) A deterioration in a resident's physical, mental, or
5 psychosocial condition that has caused or is likely to cause clinical
6 complications or life-threatening conditions; or

7 (b) An improvement in the resident's physical, mental, or
8 psychosocial condition that may make the resident eligible for release
9 or for treatment in a less intensive or less secure setting.

10 (29) "Social worker" means a person with a master's or further
11 advanced degree from an accredited school of social work or a degree
12 deemed equivalent under rules adopted by the secretary.

13 (30) "Treatment" means the broad range of emergency,
14 detoxification, residential, inpatient, and outpatient services and
15 care, including diagnostic evaluation, mental health or chemical
16 dependency education and counseling, medical, psychiatric,
17 psychological, and social service care, vocational rehabilitation, and
18 career counseling, which may be extended to persons with mental
19 disorders, chemical dependency disorders, or both, and their families.

20 (31) "Treatment records" include registration and all other records
21 concerning individuals who are receiving or who at any time have
22 received services for mental illness, which are maintained by the
23 department, by regional support networks and their staffs, and by
24 treatment facilities. "Treatment records" do not include notes or
25 records maintained for personal use by an individual providing
26 treatment services for the department, regional support networks, or a
27 treatment facility if the notes or records are not available to others.

28 (32) "Violent act" means behavior that resulted in homicide,
29 attempted suicide, nonfatal injuries, or substantial damage to
30 property.

31 NEW SECTION. **Sec. 404.** A facility shall honor an advance
32 directive that was validly executed pursuant to chapter 70.122 RCW and
33 a mental health advance directive that was validly executed pursuant to
34 chapter 71.32 RCW.

35 NEW SECTION. **Sec. 405.** A person, eighteen years old or older, may

1 be admitted to an enhanced services facility if he or she meets the
2 criteria in subsections (1) through (3) of this section:

3 (1) The person requires: (a) Daily care by or under the
4 supervision of a mental health professional, chemical dependency
5 professional, or nurse; or (b) assistance with three or more activities
6 of daily living; and

7 (2) The person has: (a) A mental disorder, chemical dependency
8 disorder, or both; (b) an organic or traumatic brain injury; or (c) a
9 cognitive impairment that results in symptoms or behaviors requiring
10 supervision and facility services;

11 (3) The person has two or more of the following:

12 (a) Self-endangering behaviors that are frequent or difficult to
13 manage;

14 (b) Aggressive, threatening, or assaultive behaviors that create a
15 risk to the health or safety of other residents or staff, or a
16 significant risk to property and these behaviors are frequent or
17 difficult to manage;

18 (c) Intrusive behaviors that put residents or staff at risk;

19 (d) Complex medication needs and those needs include psychotropic
20 medications;

21 (e) A history of or likelihood of unsuccessful placements in either
22 a licensed facility or other state facility or a history of rejected
23 applications for admission to other licensed facilities based on the
24 person's behaviors, history, or security needs;

25 (f) A history of frequent or protracted mental health
26 hospitalizations;

27 (g) A history of offenses against a person or felony offenses that
28 created substantial damage to property.

29 NEW SECTION. **Sec. 406.** (1)(a) Every person who is a resident of
30 an enhanced services facility shall be entitled to all the rights set
31 forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall
32 retain all rights not denied him or her under these chapters.

33 (b) No person shall be presumed incompetent as a consequence of
34 receiving an evaluation or voluntary or involuntary treatment for a
35 mental disorder, chemical dependency disorder, or both, under this
36 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this

1 state dealing with mental illness. Competency shall not be determined
2 or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

3 (c) At the time of his or her treatment planning meeting, every
4 resident of an enhanced services facility shall be given a written
5 statement setting forth the substance of this section. The department
6 shall by rule develop a statement and process for informing residents
7 of their rights in a manner that is likely to be understood by the
8 resident.

9 (2) Every resident of an enhanced services facility shall have the
10 right to adequate care and individualized treatment.

11 (3) The provisions of this chapter shall not be construed to deny
12 to any person treatment by spiritual means through prayer in accordance
13 with the tenets and practices of a church or religious denomination.

14 (4) Persons receiving evaluation or treatment under this chapter
15 shall be given a reasonable choice of an available physician or other
16 professional person qualified to provide such services.

17 (5) The physician-patient privilege or the psychologist-client
18 privilege shall be deemed waived in proceedings under this chapter
19 relating to the administration of antipsychotic medications. As to
20 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the
21 privileges shall be waived when a court of competent jurisdiction in
22 its discretion determines that such waiver is necessary to protect
23 either the detained person or the public.

24 (6) Insofar as danger to the person or others is not created, each
25 resident of an enhanced services facility shall have, in addition to
26 other rights not specifically withheld by law, the following rights, a
27 list of which shall be prominently posted in all facilities,
28 institutions, and hospitals providing such services:

29 (a) To wear his or her own clothes and to keep and use his or her
30 own personal possessions, except when deprivation of same is essential
31 to protect the safety of the resident or other persons;

32 (b) To keep and be allowed to spend a reasonable sum of his or her
33 own money for canteen expenses and small purchases;

34 (c) To have access to individual storage space for his or her
35 private use;

36 (d) To have visitors at reasonable times;

37 (e) To have reasonable access to a telephone, both to make and

1 receive confidential calls, consistent with an effective treatment
2 program;

3 (f) To have ready access to letter writing materials, including
4 stamps, and to send and receive uncensored correspondence through the
5 mails;

6 (g) Not to consent to the administration of antipsychotic
7 medications beyond the hearing conducted pursuant to RCW 71.05.215 or
8 71.05.370 (as recodified by this act), or the performance of
9 electroconvulsant therapy, or surgery, except emergency life-saving
10 surgery, unless ordered by a court under RCW 71.05.370 (as recodified
11 by this act);

12 (h) To discuss and actively participate in treatment plans and
13 decisions with professional persons;

14 (i) Not to have psychosurgery performed on him or her under any
15 circumstances;

16 (j) To dispose of property and sign contracts unless such person
17 has been adjudicated an incompetent in a court proceeding directed to
18 that particular issue; and

19 (k) To complain about rights violations or conditions and request
20 the assistance of a mental health ombudsman or representative of
21 Washington protection and advocacy. The facility may not prohibit or
22 interfere with a resident's decision to consult with an advocate of his
23 or her choice.

24 (7) Nothing contained in this chapter shall prohibit a resident
25 from petitioning by writ of habeas corpus for release.

26 (8) Nothing in this section permits any person to knowingly violate
27 a no-contact order or a condition of an active judgment and sentence or
28 active supervision by the department of corrections.

29 (9) A person has a right to refuse placement, except where subject
30 to commitment, in an enhanced services facility. No person shall be
31 denied other department services solely on the grounds that he or she
32 has made such a refusal.

33 (10) A person has a right to appeal the decision of the department
34 that he or she is eligible for placement at an enhanced services
35 facility, and shall be given notice of the right to appeal in a format
36 that is accessible to the person with instructions regarding what to do
37 if the person wants to appeal.

1 NEW SECTION. **Sec. 407.** A person who is gravely disabled or
2 presents a likelihood of serious harm as a result of a mental or
3 chemical dependency disorder or co-occurring mental and chemical
4 dependency disorders has a right to refuse antipsychotic medication.
5 Antipsychotic medication may be administered over the person's
6 objections only pursuant to RCW 71.05.215 or 71.05.370 (as recodified
7 by this act).

8 NEW SECTION. **Sec. 408.** (1)(a) The department shall not license an
9 enhanced services facility that serves any residents under sixty-five
10 years of age for a capacity to exceed sixteen residents.

11 (b) The department may contract for services for the operation of
12 enhanced services facilities only to the extent that funds are
13 specifically provided for that purpose.

14 (2) The facility shall provide an appropriate level of security for
15 the characteristics, behaviors, and legal status of the residents.

16 (3) An enhanced services facility may hold only one license but, to
17 the extent permitted under state and federal law and medicaid
18 requirements, a facility may be located in the same building as another
19 licensed facility, provided that:

20 (a) The enhanced services facility is in a location that is totally
21 separate and discrete from the other licensed facility; and

22 (b) The two facilities maintain separate staffing, unless an
23 exception to this is permitted by the department in rule.

24 (4) Nursing homes under chapter 18.51 RCW, boarding homes under
25 chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that
26 become licensed as facilities under this chapter shall be deemed to
27 meet the applicable state and local rules, regulations, permits, and
28 code requirements. All other facilities are required to meet all
29 applicable state and local rules, regulations, permits, and code
30 requirements.

31 NEW SECTION. **Sec. 409.** (1) The enhanced services facility shall
32 complete a comprehensive assessment for each resident within fourteen
33 days of admission, and the assessments shall be repeated upon a
34 significant change in the resident's condition or, at a minimum, every
35 one hundred eighty days if there is no significant change in condition.

1 (2) The enhanced services facility shall develop an individualized
2 treatment plan for each resident based on the comprehensive assessment
3 and any other information in the person's record. The plan shall be
4 updated as necessary, and shall include a plan for appropriate transfer
5 or discharge and reintegration into the community. Where the person is
6 under the supervision of the department of corrections, the facility
7 shall collaborate with the department of corrections to maximize
8 treatment outcomes and reduce the likelihood of reoffense.

9 (3) The plan shall maximize the opportunities for independence,
10 recovery, employment, the resident's participation in treatment
11 decisions, and collaboration with peer-supported services, and provide
12 for care and treatment in the least restrictive manner appropriate to
13 the individual resident, and, where relevant, to any court orders with
14 which the resident must comply.

15 NEW SECTION. **Sec. 410.** (1) An enhanced services facility must
16 have sufficient numbers of staff with the appropriate credentials and
17 training to provide residents with the appropriate care and treatment:

- 18 (a) Mental health treatment;
- 19 (b) Medication services;
- 20 (c) Assistance with the activities of daily living;
- 21 (d) Medical or habilitative treatment;
- 22 (e) Dietary services;
- 23 (f) Security; and
- 24 (g) Chemical dependency treatment.

25 (2) Where an enhanced services facility specializes in medically
26 fragile persons with mental disorders, the on-site staff must include
27 at least one licensed nurse twenty-four hours per day. The nurse must
28 be a registered nurse for at least sixteen hours per day. If the nurse
29 is not a registered nurse, a registered nurse or a doctor must be on-
30 call during the remaining eight hours.

31 (3) Any employee or other individual who will have unsupervised
32 access to vulnerable adults must successfully pass a background inquiry
33 check.

34 NEW SECTION. **Sec. 411.** This chapter does not apply to the
35 following residential facilities:

- 36 (1) Nursing homes licensed under chapter 18.51 RCW;

- 1 (2) Boarding homes licensed under chapter 18.20 RCW;
- 2 (3) Adult family homes licensed under chapter 70.128 RCW;
- 3 (4) Facilities approved and certified under chapter 71A.22 RCW;
- 4 (5) Residential treatment facilities licensed under chapter 71.12
- 5 RCW; and
- 6 (6) Hospitals licensed under chapter 70.41 RCW.

7 NEW SECTION. **Sec. 412.** (1) The department shall establish
8 licensing rules for enhanced services facilities to serve the
9 populations defined in this chapter.

10 (2) No person or public or private agency may operate or maintain
11 an enhanced services facility without a license, which must be renewed
12 annually.

13 (3) A licensee shall have the following readily accessible and
14 available for review by the department, residents, families of
15 residents, and the public:

16 (a) Its license to operate and a copy of the department's most
17 recent inspection report and any recent complaint investigation reports
18 issued by the department;

19 (b) Its written policies and procedures for all treatment, care,
20 and services provided directly or indirectly by the facility; and

21 (c) The department's toll-free complaint number, which shall also
22 be posted in a clearly visible place and manner.

23 (4) Enhanced services facilities shall maintain a grievance
24 procedure that meets the requirements of rules established by the
25 department.

26 (5) No facility shall discriminate or retaliate in any manner
27 against a resident or employee because the resident, employee, or any
28 other person made a complaint or provided information to the
29 department, the long-term care ombudsman, Washington protection and
30 advocacy system, or a mental health ombudsperson.

31 (6) Each enhanced services facility will post in a prominent place
32 in a common area a notice by the Washington protection and advocacy
33 system providing contact information.

34 NEW SECTION. **Sec. 413.** (1) In any case in which the department
35 finds that a licensee of a facility, or any partner, officer, director,
36 owner of five percent or more of the assets of the facility, or

1 managing employee failed or refused to comply with the requirements of
2 this chapter or the rules established under them, the department may
3 take any or all of the following actions:

- 4 (a) Suspend, revoke, or refuse to issue or renew a license;
- 5 (b) Order stop placement; or
- 6 (c) Assess civil monetary penalties.

7 (2) The department may suspend, revoke, or refuse to renew a
8 license, assess civil monetary penalties, or both, in any case in which
9 it finds that the licensee of a facility, or any partner, officer,
10 director, owner of five percent or more of the assets of the facility,
11 or managing employee:

12 (a) Operated a facility without a license or under a revoked or
13 suspended license;

14 (b) Knowingly or with reason to know made a false statement of a
15 material fact in the license application or any data attached thereto,
16 or in any matter under investigation by the department;

17 (c) Refused to allow representatives or agents of the department to
18 inspect all books, records, and files required to be maintained or any
19 portion of the premises of the facility;

20 (d) Willfully prevented, interfered with, or attempted to impede in
21 any way the work of any duly authorized representative of the
22 department and the lawful enforcement of any provision of this chapter;

23 (e) Willfully prevented or interfered with any representative of
24 the department in the preservation of evidence of any violation of any
25 of the provisions of this chapter or of the rules adopted under it; or

26 (f) Failed to pay any civil monetary penalty assessed by the
27 department under this chapter within ten days after the assessment
28 becomes final.

29 (3)(a) Civil penalties collected under this chapter shall be
30 deposited into a special fund administered by the department.

31 (b) Civil monetary penalties, if imposed, may be assessed and
32 collected, with interest, for each day the facility is or was out of
33 compliance. Civil monetary penalties shall not exceed three thousand
34 dollars per day. Each day upon which the same or a substantially
35 similar action occurs is a separate violation subject to the assessment
36 of a separate penalty.

37 (4) The department may use the civil penalty monetary fund for the

1 protection of the health or property of residents of facilities found
2 to be deficient including:

3 (a) Payment for the cost of relocation of residents to other
4 facilities;

5 (b) Payment to maintain operation of a facility pending correction
6 of deficiencies or closure; and

7 (c) Reimbursement of a resident for personal funds or property
8 loss.

9 (5)(a) The department may issue a stop placement order on a
10 facility, effective upon oral or written notice, when the department
11 determines:

12 (i) The facility no longer substantially meets the requirements of
13 this chapter; and

14 (ii) The deficiency or deficiencies in the facility:

15 (A) Jeopardizes the health and safety of the residents; or
16 (B) Seriously limits the facility's capacity to provide adequate
17 care.

18 (b) When the department has ordered a stop placement, the
19 department may approve a readmission to the facility from a hospital,
20 residential treatment facility, or crisis intervention facility when
21 the department determines the readmission would be in the best interest
22 of the individual seeking readmission.

23 (6) If the department determines that an emergency exists and
24 resident health and safety is immediately jeopardized as a result of a
25 facility's failure or refusal to comply with this chapter, the
26 department may summarily suspend the facility's license and order the
27 immediate closure of the facility, or the immediate transfer of
28 residents, or both.

29 (7) If the department determines that the health or safety of the
30 residents is immediately jeopardized as a result of a facility's
31 failure or refusal to comply with requirements of this chapter, the
32 department may appoint temporary management to:

33 (a) Oversee the operation of the facility; and
34 (b) Ensure the health and safety of the facility's residents while:

35 (i) Orderly closure of the facility occurs; or
36 (ii) The deficiencies necessitating temporary management are
37 corrected.

1 NEW SECTION. **Sec. 414.** (1) All orders of the department denying,
2 suspending, or revoking the license or assessing a monetary penalty
3 shall become final twenty days after the same has been served upon the
4 applicant or licensee unless a hearing is requested.

5 (2) All orders of the department imposing stop placement, temporary
6 management, emergency closure, emergency transfer, or summary license
7 suspension shall be effective immediately upon notice, pending any
8 hearing.

9 (3) Subject to the requirements of subsection (2) of this section,
10 all hearings under this chapter and judicial review of such
11 determinations shall be in accordance with the administrative procedure
12 act, chapter 34.05 RCW.

13 NEW SECTION. **Sec. 415.** Operation of a facility without a license
14 in violation of this chapter and discrimination against medicaid
15 recipients is a matter vitally affecting the public interest for the
16 purpose of applying the consumer protection act, chapter 19.86 RCW.
17 Operation of an enhanced services facility without a license in
18 violation of this chapter is not reasonable in relation to the
19 development and preservation of business. Such a violation is an
20 unfair or deceptive act in trade or commerce and an unfair method of
21 competition for the purpose of applying the consumer protection act,
22 chapter 19.86 RCW.

23 NEW SECTION. **Sec. 416.** A person operating or maintaining a
24 facility without a license under this chapter is guilty of a
25 misdemeanor and each day of a continuing violation after conviction
26 shall be considered a separate offense.

27 NEW SECTION. **Sec. 417.** Notwithstanding the existence or use of
28 any other remedy, the department may, in the manner provided by law,
29 maintain an action in the name of the state for an injunction, civil
30 penalty, or other process against a person to restrain or prevent the
31 operation or maintenance of a facility without a license issued under
32 this chapter.

33 NEW SECTION. **Sec. 418.** (1) The department shall make or cause to
34 be made at least one inspection of each facility prior to licensure and

1 an unannounced full inspection of facilities at least once every
2 eighteen months. The statewide average interval between full facility
3 inspections must be fifteen months.

4 (2) Any duly authorized officer, employee, or agent of the
5 department may enter and inspect any facility at any time to determine
6 that the facility is in compliance with this chapter and applicable
7 rules, and to enforce any provision of this chapter. Complaint
8 inspections shall be unannounced and conducted in such a manner as to
9 ensure maximum effectiveness. No advance notice shall be given of any
10 inspection unless authorized or required by federal law.

11 (3) During inspections, the facility must give the department
12 access to areas, materials, and equipment used to provide care or
13 support to residents, including resident and staff records, accounts,
14 and the physical premises, including the buildings, grounds, and
15 equipment. The department has the authority to privately interview the
16 provider, staff, residents, and other individuals familiar with
17 resident care and treatment.

18 (4) Any public employee giving advance notice of an inspection in
19 violation of this section shall be suspended from all duties without
20 pay for a period of not less than five nor more than fifteen days.

21 (5) The department shall prepare a written report describing the
22 violations found during an inspection, and shall provide a copy of the
23 inspection report to the facility.

24 (6) The facility shall develop a written plan of correction for any
25 violations identified by the department and provide a plan of
26 correction to the department within ten working days from the receipt
27 of the inspection report.

28 NEW SECTION. **Sec. 419.** The facility shall only admit individuals:

29 (1) Who are over the age of eighteen;

30 (2) Who meet the resident eligibility requirements described in
31 section 405 of this act; and

32 (3) Whose needs the facility can safely and appropriately meet
33 through qualified and trained staff, services, equipment, security, and
34 building design.

35 NEW SECTION. **Sec. 420.** If the facility does not employ a

1 qualified professional able to furnish needed services, the facility
2 must have a written contract with a qualified professional or agency
3 outside the facility to furnish the needed services.

4 NEW SECTION. **Sec. 421.** At least sixty days before the effective
5 date of any change of ownership, or change of management of a facility,
6 the current operating entity must provide written notification about
7 the proposed change separately and in writing, to the department, each
8 resident of the facility, or the resident's guardian or representative.

9 NEW SECTION. **Sec. 422.** The facility shall:

10 (1) Maintain adequate resident records to enable the provision of
11 necessary treatment, care, and services and to respond appropriately in
12 emergency situations;

13 (2) Comply with all state and federal requirements related to
14 documentation, confidentiality, and information sharing, including
15 chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and

16 (3) Where possible, obtain signed releases of information
17 designating the department, the facility, and the department of
18 corrections where the person is under its supervision, as recipients of
19 health care information.

20 NEW SECTION. **Sec. 423.** (1) Standards for fire protection and the
21 enforcement thereof, with respect to all facilities licensed under this
22 chapter, are the responsibility of the chief of the Washington state
23 patrol, through the director of fire protection, who must adopt
24 recognized standards as applicable to facilities for the protection of
25 life against the cause and spread of fire and fire hazards. If the
26 facility to be licensed meets with the approval of the chief of the
27 Washington state patrol, through the director of fire protection, the
28 director of fire protection must submit to the department a written
29 report approving the facility with respect to fire protection before a
30 full license can be issued. The chief of the Washington state patrol,
31 through the director of fire protection, shall conduct an unannounced
32 full inspection of facilities at least once every eighteen months. The
33 statewide average interval between full facility inspections must be
34 fifteen months.

1 (2) Inspections of facilities by local authorities must be
2 consistent with the requirements adopted by the chief of the Washington
3 state patrol, through the director of fire protection. Findings of a
4 serious nature must be coordinated with the department and the chief of
5 the Washington state patrol, through the director of fire protection,
6 for determination of appropriate actions to ensure a safe environment
7 for residents. The chief of the Washington state patrol, through the
8 director of fire protection, has exclusive authority to determine
9 appropriate corrective action under this section.

10 NEW SECTION. **Sec. 424.** No facility providing care and treatment
11 for individuals placed in a facility, or agency licensing or placing
12 residents in a facility, acting in the course of its duties, shall be
13 civilly or criminally liable for performing its duties under this
14 chapter, provided that such duties were performed in good faith and
15 without gross negligence.

16 NEW SECTION. **Sec. 425.** (1) The secretary shall adopt rules to
17 implement this chapter.

18 (2) Such rules shall at the minimum: (a) Promote safe treatment
19 and necessary care of individuals residing in the facility and provide
20 for safe and clean conditions; (b) establish licensee qualifications,
21 licensing and enforcement, and license fees sufficient to cover the
22 cost of licensing and enforcement.

23 **PART V**
24 **FORENSIC AND CORRECTIONAL**
25
26 **Drug and Mental Health Courts**

27 NEW SECTION. **Sec. 501.** A new section is added to chapter 2.28 RCW
28 to read as follows:

29 (1) Counties may establish and operate mental health courts.

30 (2) For the purposes of this section, "mental health court" means
31 a court that has special calendars or dockets designed to achieve a
32 reduction in recidivism and symptoms of mental illness among
33 nonviolent, mentally ill felony and nonfelony offenders by increasing
34 their likelihood for successful rehabilitation through early,

1 continuous, and intense judicially supervised treatment including drug
2 treatment for persons with co-occurring disorders; mandatory periodic
3 reviews, including drug testing if indicated; and the use of
4 appropriate sanctions and other rehabilitation services.

5 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
6 mental health court program must first:

7 (i) Exhaust all federal funding that is available to support the
8 operations of its mental health court and associated services; and

9 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
10 for mental health court programs with local cash or in-kind resources.
11 Moneys allocated by the state must be used to supplement, not supplant,
12 other federal, state, and local funds for mental health court
13 operations and associated services.

14 (b) Any county that establishes a mental health court pursuant to
15 this section shall establish minimum requirements for the participation
16 of offenders in the program. The mental health court may adopt local
17 requirements that are more stringent than the minimum. The minimum
18 requirements are:

19 (i) The offender would benefit from psychiatric treatment;

20 (ii) The offender has not previously been convicted of a serious
21 violent offense or sex offense as defined in RCW 9.94A.030; and

22 (iii) Without regard to whether proof of any of these elements is
23 required to convict, the offender is not currently charged with or
24 convicted of an offense:

25 (A) That is a sex offense;

26 (B) That is a serious violent offense;

27 (C) During which the defendant used a firearm; or

28 (D) During which the defendant caused substantial or great bodily
29 harm or death to another person.

30 NEW SECTION. **Sec. 502.** A new section is added to chapter 2.28 RCW
31 to read as follows:

32 Any county that has established a drug court and a mental health
33 court under this chapter may combine the functions of both courts into
34 a single therapeutic court.

35 NEW SECTION. **Sec. 503.** A new section is added to chapter 26.12
36 RCW to read as follows:

1 (1) Every county that authorizes the tax provided in section 804 of
2 this act shall, and every county may, establish and operate a
3 therapeutic court component for dependency proceedings designed to be
4 effective for the court's size, location, and resources. A county with
5 a drug court for criminal cases or with a mental health court may
6 include a therapeutic court for dependency proceedings as a component
7 of its existing program.

8 (2) For the purposes of this section, "therapeutic court" means a
9 court that has special calendars or dockets designed for the intense
10 judicial supervision, coordination, and oversight of treatment provided
11 to parents and families who have substance abuse or mental health
12 problems and who are involved in the dependency and is designed to
13 achieve a reduction in:

- 14 (a) Child abuse and neglect;
- 15 (b) Out-of-home placement of children;
- 16 (c) Termination of parental rights; and
- 17 (d) Substance abuse or mental health symptoms among parents or
18 guardians and their children.

19 (3) To the extent possible, the therapeutic court shall provide
20 services for parents and families co-located with the court or as near
21 to the court as practicable.

22 (4) The department of social and health services shall furnish
23 services to the therapeutic court unless a court contracts with
24 providers outside of the department.

25 (5) Any jurisdiction that receives a state appropriation to fund a
26 therapeutic court must first exhaust all federal funding available for
27 the development and operation of the therapeutic court and associated
28 services.

29 (6) Moneys allocated by the state for a therapeutic court must be
30 used to supplement, not supplant, other federal, state, local, and
31 private funding for court operations and associated services under this
32 section.

33 (7) Any county that establishes a therapeutic court or receives
34 funds for an existing court under this section shall:

35 (a) Establish minimum requirements for the participation in the
36 program; and

37 (b) Develop an evaluation component of the court, including

1 tracking the success rates in graduating from treatment, reunifying
2 parents with their children, and the costs and benefits of the court.

3 **Sec. 504.** RCW 2.28.170 and 2002 c 290 s 13 are each amended to
4 read as follows:

5 (1) Counties may establish and operate drug courts.

6 (2) For the purposes of this section, "drug court" means a court
7 that has special calendars or dockets designed to achieve a reduction
8 in recidivism and substance abuse among nonviolent, substance abusing
9 felony and nonfelony offenders by increasing their likelihood for
10 successful rehabilitation through early, continuous, and intense
11 judicially supervised treatment; mandatory periodic drug testing; and
12 the use of appropriate sanctions and other rehabilitation services.

13 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
14 drug court program must first:

15 (i) Exhaust all federal funding (~~received from the office of~~
16 ~~national drug control policy~~) that is available to support the
17 operations of its drug court and associated services; and

18 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
19 for drug court programs with local cash or in-kind resources. Moneys
20 allocated by the state must be used to supplement, not supplant, other
21 federal, state, and local funds for drug court operations and
22 associated services.

23 (b) Any county that establishes a drug court pursuant to this
24 section shall establish minimum requirements for the participation of
25 offenders in the program. The drug court may adopt local requirements
26 that are more stringent than the minimum. The minimum requirements
27 are:

28 (i) The offender would benefit from substance abuse treatment;

29 (ii) The offender has not previously been convicted of a serious
30 violent offense or sex offense as defined in RCW 9.94A.030; and

31 (iii) Without regard to whether proof of any of these elements is
32 required to convict, the offender is not currently charged with or
33 convicted of an offense:

34 (A) That is a sex offense;

35 (B) That is a serious violent offense;

36 (C) During which the defendant used a firearm; or

1 (D) During which the defendant caused substantial or great bodily
2 harm or death to another person.

3 **Regional Jails**

4 NEW SECTION. **Sec. 505.** (1) The joint legislative audit and review
5 committee shall investigate and assess whether there are existing
6 facilities in the state that could be converted to use as a regional
7 jail for offenders who have mental or chemical dependency disorders, or
8 both, that need specialized housing and treatment arrangements.

9 (2) The joint legislative audit and review committee shall consider
10 the feasibility of using at least the following facilities or types of
11 facilities:

- 12 (a) State-owned or operated facilities; and
- 13 (b) Closed or abandoned nursing homes.

14 (3) The analysis shall include an assessment of when such
15 facilities could be available for use as a regional jail and the
16 potential costs, costs avoided, and benefits of at least the following
17 considerations:

- 18 (a) Any impact on existing offenders or residents;
- 19 (b) The conversion of the facilities;
- 20 (c) Infrastructure tied to the facilities;
- 21 (d) Whether the facility is, or can be, sized proportionately to
22 the available pool of offenders;
- 23 (e) Changes in criminal justice costs, including transport, access
24 to legal assistance, and access to courts;
- 25 (f) Reductions in jail populations; and
- 26 (g) Changes in treatment costs for these offenders.

27 (4) The joint legislative audit and review committee shall report
28 its findings and recommendations to the appropriate committees of the
29 legislature not later than December 15, 2005.

30 **Competency and Criminal Insanity**

31 NEW SECTION. **Sec. 506.** By January 1, 2006, the department of
32 social and health services shall:

- 33 (1) Reduce the waiting times for competency evaluation and

1 restoration to the maximum extent possible using funds appropriated for
2 this purpose; and

3 (2) Report to the legislature with an analysis of several
4 alternative strategies for addressing increases in forensic population
5 and minimizing waiting periods for competency evaluation and
6 restoration. The report shall discuss, at a minimum, the costs and
7 advantages of, and barriers to co-locating professional persons in
8 jails, performing restoration treatment in less restrictive
9 alternatives than the state hospitals, and the use of regional jail
10 facilities to accomplish competency evaluation and restoration.

11 **ESSB 6358 Implementation Issues**

12 **Sec. 507.** RCW 71.05.157 and 2004 c 166 s 16 are each amended to
13 read as follows:

14 (1) When a ((~~county~~)) designated mental health professional is
15 notified by a jail that a defendant or offender who was subject to a
16 discharge review under RCW 71.05.232 is to be released to the
17 community, the ((~~county~~)) designated mental health professional shall
18 evaluate the person within seventy-two hours of release.

19 (2) When an offender is under court-ordered treatment in the
20 community and the supervision of the department of corrections, and the
21 treatment provider becomes aware that the person is in violation of the
22 terms of the court order, the treatment provider shall notify the
23 ((~~county~~)) designated mental health professional and the department of
24 corrections of the violation and request an evaluation for purposes of
25 revocation of the less restrictive alternative.

26 (3) When a ((~~county~~)) designated mental health professional becomes
27 aware that an offender who is under court-ordered treatment in the
28 community and the supervision of the department of corrections is in
29 violation of a treatment order or a condition of supervision that
30 relates to public safety, or the ((~~county~~)) designated mental health
31 professional detains a person under this chapter, the ((~~county~~))
32 designated mental health professional shall notify the person's
33 treatment provider and the department of corrections.

34 (4) When an offender who is confined in a state correctional
35 facility or is under supervision of the department of corrections in
36 the community is subject to a petition for involuntary treatment under

1 this chapter, the petitioner shall notify the department of corrections
2 and the department of corrections shall provide documentation of its
3 risk assessment or other concerns to the petitioner and the court if
4 the department of corrections classified the offender as a high risk or
5 high needs offender.

6 (5) Nothing in this section creates a duty on any treatment
7 provider or ((county)) designated mental health professional to provide
8 offender supervision.

9 NEW SECTION. Sec. 508. A new section is added to chapter 70.96A
10 RCW to read as follows:

11 (1) Treatment providers shall inquire of each person seeking
12 treatment, at intake, whether the person is subject to court ordered
13 mental health or chemical dependency treatment, whether civil or
14 criminal, and document the person's response in his or her record. If
15 the person is in treatment on the effective date of this section, and
16 the treatment provider has not inquired whether the person is subject
17 to court ordered mental health or chemical dependency treatment, the
18 treatment provider shall inquire on the person's next treatment session
19 and document the person's response in his or her record.

20 (2) Treatment providers shall inquire of each person seeking
21 treatment, at intake, whether the person is subject to supervision of
22 any kind by the department of corrections and document the person's
23 response in his or her record. If the person is in treatment on the
24 effective date of this section, and the treatment provider has not
25 inquired whether the person is subject to supervision of any kind by
26 the department of corrections, the treatment provider shall inquire on
27 the person's next treatment session and document the person's response
28 in his or her record.

29 (3) For all persons who are subject to both court ordered mental
30 health or chemical dependency treatment and supervision by the
31 department of corrections, the treatment provider shall request an
32 authorization to release records and notify the person that, unless
33 expressly excluded by the court order the law requires treatment
34 providers to share information with the department of corrections and
35 the person's mental health treatment provider.

36 (4) If the treatment provider has reason to believe that a person
37 is subject to supervision by the department of corrections but the

1 person's record does not indicate that he or she is, the treatment
2 provider may call any department of corrections office and provide the
3 person's name and birth date. If the person is subject to supervision,
4 the treatment provider shall request, and the department of corrections
5 shall provide, the name and contact information for the person's
6 community corrections officer.

7 **PART VI**

8 **BEST PRACTICES AND COLLABORATION**

9 NEW SECTION. **Sec. 601.** (1) The department of social and health
10 services, in consultation with the members of the team charged with
11 developing the state plan for co-occurring mental and substance abuse
12 disorders, shall adopt, not later than January 1, 2006, an integrated
13 and comprehensive screening and assessment process for chemical
14 dependency and mental disorders and co-occurring chemical dependency
15 and mental disorders.

16 (a) The process adopted shall include, at a minimum:

17 (i) An initial screening tool that can be used by intake personnel
18 system-wide and which will identify the most common types of co-
19 occurring disorders;

20 (ii) An assessment process for those cases in which assessment is
21 indicated that provides an appropriate degree of assessment for most
22 situations, which can be expanded for complex situations;

23 (iii) Identification of triggers in the screening that indicate the
24 need to begin an assessment;

25 (iv) Identification of triggers after or outside the screening that
26 indicate a need to begin or resume an assessment;

27 (v) The components of an assessment process and a protocol for
28 determining whether part or all of the assessment is necessary, and at
29 what point; and

30 (vi) Emphasis that the process adopted under this section is to
31 replace and not to duplicate existing intake, screening, and assessment
32 tools and processes.

33 (b) The department shall consider existing models, including those
34 already adopted by other states, and to the extent possible, adopt an
35 established, proven model.

1 (c) The integrated, comprehensive screening and assessment process
2 shall be implemented statewide by all chemical dependency and mental
3 health treatment providers as well as all designated mental health
4 professionals, designated chemical dependency specialists, and
5 designated crisis responders not later than January 1, 2007.

6 (2) The department shall provide adequate training to effect
7 statewide implementation by the dates designated in this section and
8 shall report the rates of co-occurring disorders and the stage of
9 screening or assessment at which the co-occurring disorder was
10 identified to the appropriate committees of the legislature.

11 (3) The department shall establish contractual penalties to
12 contracted treatment providers, the regional support networks, and
13 their contracted providers for failure to implement the integrated
14 screening and assessment process by July 1, 2007.

15 NEW SECTION. **Sec. 602.** The department of corrections shall, to
16 the extent that resources are available for this purpose, utilize the
17 integrated, comprehensive screening and assessment process for chemical
18 dependency and mental disorders developed under section 601 of this
19 act.

20 NEW SECTION. **Sec. 603.** A new section is added to chapter 71.24
21 RCW to read as follows:

22 (1) By June 30, 2006, the department shall develop and implement a
23 matrix or set of matrices for providing services based on the following
24 principles:

25 (a) Maximizing evidence-based practices where these practices
26 exist; where no evidence-based practice exists, the use of research-
27 based practices, including but not limited to, the adaptation of
28 evidence-based practices to new situations; where no evidence-based or
29 research-based practices exist the use of consensus-based practices;
30 and, to the extent that funds are available, the use of promising
31 practices;

32 (b) Maximizing the person's independence, recovery, and employment
33 by consideration of the person's strengths and supports in the
34 community;

35 (c) Maximizing the person's participation in treatment decisions

1 including, where possible, the person's awareness of, and technical
2 assistance in preparing, mental health advance directives; and

3 (d) Collaboration with consumer-based support programs.

4 (2) The matrix or set of matrices shall include both adults and
5 children and persons with co-occurring mental and substance abuse
6 disorders and shall build on the service intensity quadrant models that
7 have been developed in this state.

8 (3)(a) The matrix or set of matrices shall be developed in
9 collaboration with experts in evidence-based practices for mental
10 disorders, chemical dependency disorders, and co-occurring mental and
11 chemical dependency disorders at the University of Washington, and in
12 consultation with representatives of the regional support networks,
13 community mental health providers, county chemical dependency
14 coordinators, chemical dependency providers, consumers, family
15 advocates, and community inpatient providers.

16 (b) The matrix or set of matrices shall, to the extent possible,
17 adopt or utilize materials already prepared by the department or by
18 other states.

19 (4)(a) The department shall require, by contract with the regional
20 support networks, that providers maximize the use of evidence-based,
21 research-based, and consensus-based practices and document the
22 percentage of clients enrolled in evidence-based, research-based, and
23 consensus-based programs by program type.

24 (b) The department shall establish a schedule by which regional
25 support networks and providers must adopt the matrix or set of matrices
26 and a schedule of penalties for failure to adopt and implement the
27 matrices. The department may act against the regional support networks
28 or providers or both to enforce the provisions of this section and
29 shall provide the appropriate committees of the legislature with the
30 schedules adopted under this subsection by June 30, 2006.

31 (5) The following definitions apply to this section:

32 (a) "Evidence-based" means a program or practice that has had
33 multiple site random controlled trials across heterogeneous populations
34 demonstrating that the program or practice is effective for the
35 population.

36 (b) "Research-based" means a program or practice that has some
37 research demonstrating effectiveness, but that does not yet meet the
38 standard of evidence-based practices.

1 (c) "Consensus-based" means a program or practice that has general
2 support among treatment providers and experts, based on experience or
3 professional literature, and may have anecdotal or case study support,
4 or that is agreed but not possible to perform studies with random
5 assignment and controlled groups.

6 (d) "Promising practice" means a practice that presents, based on
7 preliminary information, potential for becoming a research-based or
8 consensus-based practice.

9 NEW SECTION. **Sec. 604.** A new section is added to chapter 71.02
10 RCW to read as follows:

11 (1) The department of social and health services shall collaborate
12 with community providers of mental health services, early learning and
13 child care providers, child serving agencies, and child-placing
14 agencies to identify and utilize federal, state, and local services and
15 providers for children in out-of-home care and other populations of
16 vulnerable children who are in need of an evaluation and treatment for
17 mental health services and do not qualify for medicaid or treatment
18 services through the regional support networks.

19 (2) If no appropriate mental health services are available through
20 federal, state, or local services and providers for a child described
21 in subsection (1) of this section, the regional support network must
22 provide a child, at a minimum, with a mental health evaluation
23 consistent with chapter 71.24 RCW.

24 (3) The department, in collaboration with the office of the
25 superintendent of public instruction, local providers, local school
26 districts, and the regional support networks, shall identify and review
27 existing programs and services as well as the unmet need for programs
28 and services serving birth to five and school-aged children who exhibit
29 early signs of behavioral or mental health disorders and who are not
30 otherwise eligible for services through the regional support networks.
31 The review of programs and services shall include, but not be limited
32 to, the utilization and effectiveness of early intervention or
33 prevention services and the primary intervention programs.

34 The department of social and health services shall provide a
35 briefing on the collaboration's findings and recommendations to the
36 appropriate committee of the legislature by December 31, 2005.

1 (9) RCW 71.05.480 (Petitioning for release--Writ of habeas corpus)
2 and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and
3 (10) RCW 71.05.490 (Rights of persons committed before January 1,
4 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

5 NEW SECTION. **Sec. 702.** The following acts or parts of acts are
6 each repealed on the effective date of section 109 of this act:

7 (1) RCW 71.05.155 (Request to mental health professional by law
8 enforcement agency for investigation under RCW 71.05.150--Advisory
9 report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;

10 (2) RCW 71.05.395 (Application of uniform health care information
11 act, chapter 70.02 RCW) and 1993 c 448 s 8;

12 (3) RCW 71.05.400 (Release of information to patient's next of kin,
13 attorney, guardian, conservator--Notification of patient's death) and
14 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973
15 1st ex.s. c 142 s 45;

16 (4) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c
17 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and

18 (5) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

19 NEW SECTION. **Sec. 703.** RCW 71.05.610 (Treatment records--
20 Definitions) and 1989 c 205 s 11 are each repealed on the effective
21 date of sections 104 through 106 of this act.

22 NEW SECTION. **Sec. 704.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 71.05.650 (Treatment records--Notation of and access to
25 released data) and 1989 c 205 s 15; and

26 (2) RCW 71.05.670 (Treatment records--Violations--Civil action) and
27 1999 c 13 s 10.

28 **Sec. 705.** RCW 5.60.060 and 2001 c 286 s 2 are each amended to read
29 as follows:

30 (1) A husband shall not be examined for or against his wife,
31 without the consent of the wife, nor a wife for or against her husband
32 without the consent of the husband; nor can either during marriage or
33 afterward, be without the consent of the other, examined as to any
34 communication made by one to the other during marriage. But this

1 exception shall not apply to a civil action or proceeding by one
2 against the other, nor to a criminal action or proceeding for a crime
3 committed by one against the other, nor to a criminal action or
4 proceeding against a spouse if the marriage occurred subsequent to the
5 filing of formal charges against the defendant, nor to a criminal
6 action or proceeding for a crime committed by said husband or wife
7 against any child of whom said husband or wife is the parent or
8 guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202
9 through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the
10 spouse of a person sought to be detained under chapter 70.96A, 70.--
11 (sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be
12 compelled to testify and shall be so informed by the court prior to
13 being called as a witness.

14 (2)(a) An attorney or counselor shall not, without the consent of
15 his or her client, be examined as to any communication made by the
16 client to him or her, or his or her advice given thereon in the course
17 of professional employment.

18 (b) A parent or guardian of a minor child arrested on a criminal
19 charge may not be examined as to a communication between the child and
20 his or her attorney if the communication was made in the presence of
21 the parent or guardian. This privilege does not extend to
22 communications made prior to the arrest.

23 (3) A member of the clergy or a priest shall not, without the
24 consent of a person making the confession, be examined as to any
25 confession made to him or her in his or her professional character, in
26 the course of discipline enjoined by the church to which he or she
27 belongs.

28 (4) Subject to the limitations under RCW 70.96A.140 or
29 (~~71.05.250~~) 71.05.360 (8) and (9), a physician or surgeon or
30 osteopathic physician or surgeon or podiatric physician or surgeon
31 shall not, without the consent of his or her patient, be examined in a
32 civil action as to any information acquired in attending such patient,
33 which was necessary to enable him or her to prescribe or act for the
34 patient, except as follows:

35 (a) In any judicial proceedings regarding a child's injury,
36 neglect, or sexual abuse or the cause thereof; and

37 (b) Ninety days after filing an action for personal injuries or
38 wrongful death, the claimant shall be deemed to waive the physician-

1 patient privilege. Waiver of the physician-patient privilege for any
2 one physician or condition constitutes a waiver of the privilege as to
3 all physicians or conditions, subject to such limitations as a court
4 may impose pursuant to court rules.

5 (5) A public officer shall not be examined as a witness as to
6 communications made to him or her in official confidence, when the
7 public interest would suffer by the disclosure.

8 (6)(a) A peer support group counselor shall not, without consent of
9 the law enforcement officer making the communication, be compelled to
10 testify about any communication made to the counselor by the officer
11 while receiving counseling. The counselor must be designated as such
12 by the sheriff, police chief, or chief of the Washington state patrol,
13 prior to the incident that results in counseling. The privilege only
14 applies when the communication was made to the counselor while acting
15 in his or her capacity as a peer support group counselor. The
16 privilege does not apply if the counselor was an initial responding
17 officer, a witness, or a party to the incident which prompted the
18 delivery of peer support group counseling services to the law
19 enforcement officer.

20 (b) For purposes of this section, "peer support group counselor"
21 means a:

22 (i) Law enforcement officer, or civilian employee of a law
23 enforcement agency, who has received training to provide emotional and
24 moral support and counseling to an officer who needs those services as
25 a result of an incident in which the officer was involved while acting
26 in his or her official capacity; or

27 (ii) Nonemployee counselor who has been designated by the sheriff,
28 police chief, or chief of the Washington state patrol to provide
29 emotional and moral support and counseling to an officer who needs
30 those services as a result of an incident in which the officer was
31 involved while acting in his or her official capacity.

32 (7) A sexual assault advocate may not, without the consent of the
33 victim, be examined as to any communication made by the victim to the
34 sexual assault advocate.

35 (a) For purposes of this section, "sexual assault advocate" means
36 the employee or volunteer from a rape crisis center, victim assistance
37 unit, program, or association, that provides information, medical or
38 legal advocacy, counseling, or support to victims of sexual assault,

1 who is designated by the victim to accompany the victim to the hospital
2 or other health care facility and to proceedings concerning the alleged
3 assault, including police and prosecution interviews and court
4 proceedings.

5 (b) A sexual assault advocate may disclose a confidential
6 communication without the consent of the victim if failure to disclose
7 is likely to result in a clear, imminent risk of serious physical
8 injury or death of the victim or another person. Any sexual assault
9 advocate participating in good faith in the disclosing of records and
10 communications under this section shall have immunity from any
11 liability, civil, criminal, or otherwise, that might result from the
12 action. In any proceeding, civil or criminal, arising out of a
13 disclosure under this section, the good faith of the sexual assault
14 advocate who disclosed the confidential communication shall be
15 presumed.

16 **Sec. 706.** RCW 18.83.110 and 1989 c 271 s 303 are each amended to
17 read as follows:

18 Confidential communications between a client and a psychologist
19 shall be privileged against compulsory disclosure to the same extent
20 and subject to the same conditions as confidential communications
21 between attorney and client, but this exception is subject to the
22 limitations under RCW 70.96A.140 and (~~71.05.250~~) 71.05.360 (8) and
23 (9).

24 **Sec. 707.** RCW 18.225.105 and 2003 c 204 s 1 are each amended to
25 read as follows:

26 A person licensed under this chapter shall not disclose the written
27 acknowledgment of the disclosure statement pursuant to RCW 18.225.100,
28 nor any information acquired from persons consulting the individual in
29 a professional capacity when the information was necessary to enable
30 the individual to render professional services to those persons except:

31 (1) With the written authorization of that person or, in the case
32 of death or disability, the person's personal representative;

33 (2) If the person waives the privilege by bringing charges against
34 the person licensed under this chapter;

35 (3) In response to a subpoena from the secretary. The secretary

1 may subpoena only records related to a complaint or report under RCW
2 18.130.050;

3 (4) As required under chapter 26.44 or 74.34 RCW or RCW
4 (~~71.05.250~~) 71.05.360 (8) and (9); or

5 (5) To any individual if the person licensed under this chapter
6 reasonably believes that disclosure will avoid or minimize an imminent
7 danger to the health or safety of the individual or any other
8 individual; however, there is no obligation on the part of the provider
9 to so disclose.

10 **Sec. 708.** RCW 71.05.235 and 2000 c 74 s 6 are each amended to read
11 as follows:

12 (1) If an individual is referred to a ((~~county~~)) designated mental
13 health professional under RCW 10.77.090(1)(d)(iii)(A), the ((~~county~~))
14 designated mental health professional shall examine the individual
15 within forty-eight hours. If the ((~~county~~)) designated mental health
16 professional determines it is not appropriate to detain the individual
17 or petition for a ninety-day less restrictive alternative under RCW
18 71.05.230(4), that decision shall be immediately presented to the
19 superior court for hearing. The court shall hold a hearing to consider
20 the decision of the ((~~county~~)) designated mental health professional
21 not later than the next judicial day. At the hearing the superior
22 court shall review the determination of the ((~~county~~)) designated
23 mental health professional and determine whether an order should be
24 entered requiring the person to be evaluated at an evaluation and
25 treatment facility. No person referred to an evaluation and treatment
26 facility may be held at the facility longer than seventy-two hours.

27 (2) If an individual is placed in an evaluation and treatment
28 facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall
29 evaluate the individual for purposes of determining whether to file a
30 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.
31 Before expiration of the seventy-two hour evaluation period authorized
32 under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file
33 a petition or, if the recommendation of the professional person is to
34 release the individual, present his or her recommendation to the
35 superior court of the county in which the criminal charge was
36 dismissed. The superior court shall review the recommendation not
37 later than forty-eight hours, excluding Saturdays, Sundays, and

1 holidays, after the recommendation is presented. If the court rejects
2 the recommendation to unconditionally release the individual, the court
3 may order the individual detained at a designated evaluation and
4 treatment facility for not more than a seventy-two hour evaluation and
5 treatment period and direct the individual to appear at a surety
6 hearing before that court within seventy-two hours, or the court may
7 release the individual but direct the individual to appear at a surety
8 hearing set before that court within eleven days, at which time the
9 prosecutor may file a petition under this chapter for ninety-day
10 inpatient or outpatient treatment. If a petition is filed by the
11 prosecutor, the court may order that the person named in the petition
12 be detained at the evaluation and treatment facility that performed the
13 evaluation under this subsection or order the respondent to be in
14 outpatient treatment. If a petition is filed but the individual fails
15 to appear in court for the surety hearing, the court shall order that
16 a mental health professional or peace officer shall take such person or
17 cause such person to be taken into custody and placed in an evaluation
18 and treatment facility to be brought before the court the next judicial
19 day after detention. Upon the individual's first appearance in court
20 after a petition has been filed, proceedings under RCW 71.05.310 and
21 71.05.320 shall commence. For an individual subject to this
22 subsection, the prosecutor or professional person may directly file a
23 petition for ninety-day inpatient or outpatient treatment and no
24 petition for initial detention or fourteen-day detention is required
25 before such a petition may be filed.

26 The court shall conduct the hearing on the petition filed under
27 this subsection within five judicial days of the date the petition is
28 filed. The court may continue the hearing upon the written request of
29 the person named in the petition or the person's attorney, for good
30 cause shown, which continuance shall not exceed five additional
31 judicial days. If the person named in the petition requests a jury
32 trial, the trial shall commence within ten judicial days of the date of
33 the filing of the petition. The burden of proof shall be by clear,
34 cogent, and convincing evidence and shall be upon the petitioner. The
35 person shall be present at such proceeding, which shall in all respects
36 accord with the constitutional guarantees of due process of law and the
37 rules of evidence pursuant to RCW (~~(71.05.250)~~) 71.05.360 (8) and (9).

1 During the proceeding the person named in the petition shall
2 continue to be detained and treated until released by order of the
3 court. If no order has been made within thirty days after the filing
4 of the petition, not including any extensions of time requested by the
5 detained person or his or her attorney, the detained person shall be
6 released.

7 (3) If a (~~county~~) designated mental health professional or the
8 professional person and prosecuting attorney for the county in which
9 the criminal charge was dismissed or attorney general, as appropriate,
10 stipulate that the individual does not present a likelihood of serious
11 harm or is not gravely disabled, the hearing under this section is not
12 required and the individual, if in custody, shall be released.

13 (4) The individual shall have the rights specified in RCW
14 (~~71.05.250~~) 71.05.360 (8) and (9).

15 **Sec. 709.** RCW 71.05.310 and 1987 c 439 s 9 are each amended to
16 read as follows:

17 The court shall conduct a hearing on the petition for ninety day
18 treatment within five judicial days of the first court appearance after
19 the probable cause hearing. The court may continue the hearing upon
20 the written request of the person named in the petition or the person's
21 attorney, for good cause shown, which continuance shall not exceed five
22 additional judicial days. If the person named in the petition requests
23 a jury trial, the trial shall commence within ten judicial days of the
24 first court appearance after the probable cause hearing. The burden of
25 proof shall be by clear, cogent, and convincing evidence and shall be
26 upon the petitioner. The person shall be present at such proceeding,
27 which shall in all respects accord with the constitutional guarantees
28 of due process of law and the rules of evidence pursuant to RCW
29 (~~71.05.250~~) 71.05.360 (8) and (9).

30 During the proceeding, the person named in the petition shall
31 continue to be treated until released by order of the superior court.
32 If no order has been made within thirty days after the filing of the
33 petition, not including extensions of time requested by the detained
34 person or his or her attorney, the detained person shall be released.

35 **Sec. 710.** RCW 71.05.425 and 2000 c 94 s 10 are each amended to
36 read as follows:

1 (1)(a) Except as provided in subsection (2) of this section, at the
2 earliest possible date, and in no event later than thirty days before
3 conditional release, final release, authorized leave under RCW
4 71.05.325(2), or transfer to a facility other than a state mental
5 hospital, the superintendent shall send written notice of conditional
6 release, release, authorized leave, or transfer of a person committed
7 under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex,
8 violent, or felony harassment offense pursuant to RCW 10.77.090(4) to
9 the following:

10 (i) The chief of police of the city, if any, in which the person
11 will reside; and

12 (ii) The sheriff of the county in which the person will reside.

13 (b) The same notice as required by (a) of this subsection shall be
14 sent to the following, if such notice has been requested in writing
15 about a specific person committed under RCW 71.05.280(3) or
16 71.05.320(2)(c) following dismissal of a sex, violent, or felony
17 harassment offense pursuant to RCW 10.77.090(4):

18 (i) The victim of the sex, violent, or felony harassment offense
19 that was dismissed pursuant to RCW 10.77.090(4) preceding commitment
20 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin
21 if the crime was a homicide;

22 (ii) Any witnesses who testified against the person in any court
23 proceedings; and

24 (iii) Any person specified in writing by the prosecuting attorney.
25 Information regarding victims, next of kin, or witnesses requesting the
26 notice, information regarding any other person specified in writing by
27 the prosecuting attorney to receive the notice, and the notice are
28 confidential and shall not be available to the person committed under
29 this chapter.

30 (c) The thirty-day notice requirements contained in this subsection
31 shall not apply to emergency medical transfers.

32 (d) The existence of the notice requirements in this subsection
33 will not require any extension of the release date in the event the
34 release plan changes after notification.

35 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)
36 following dismissal of a sex, violent, or felony harassment offense
37 pursuant to RCW 10.77.090(4) escapes, the superintendent shall
38 immediately notify, by the most reasonable and expedient means

1 available, the chief of police of the city and the sheriff of the
2 county in which the person resided immediately before the person's
3 arrest. If previously requested, the superintendent shall also notify
4 the witnesses and the victim of the sex, violent, or felony harassment
5 offense that was dismissed pursuant to RCW 10.77.090(4) preceding
6 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next
7 of kin if the crime was a homicide. In addition, the secretary shall
8 also notify appropriate parties pursuant to RCW (~~71.05.410~~)
9 71.05.390(18). If the person is recaptured, the superintendent shall
10 send notice to the persons designated in this subsection as soon as
11 possible but in no event later than two working days after the
12 department learns of such recapture.

13 (3) If the victim, the victim's next of kin, or any witness is
14 under the age of sixteen, the notice required by this section shall be
15 sent to the parent or legal guardian of the child.

16 (4) The superintendent shall send the notices required by this
17 chapter to the last address provided to the department by the
18 requesting party. The requesting party shall furnish the department
19 with a current address.

20 (5) For purposes of this section the following terms have the
21 following meanings:

22 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

23 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

24 (c) "Next of kin" means a person's spouse, parents, siblings, and
25 children;

26 (d) "Felony harassment offense" means a crime of harassment as
27 defined in RCW 9A.46.060 that is a felony.

28 **Sec. 711.** RCW 71.05.445 and 2004 c 166 s 4 are each amended to
29 read as follows:

30 (1) The definitions in this subsection apply throughout this
31 section unless the context clearly requires otherwise.

32 (a) "Information related to mental health services" means all
33 information and records compiled, obtained, or maintained in the course
34 of providing services to either voluntary or involuntary recipients of
35 services by a mental health service provider. This may include
36 documents of legal proceedings under this chapter or chapter 71.34 or
37 10.77 RCW, or somatic health care information.

1 (b) "Mental health service provider" means a public or private
2 agency that provides services to persons with mental disorders as
3 defined under RCW 71.05.020 and receives funding from public sources.
4 This includes evaluation and treatment facilities as defined in RCW
5 71.05.020, community mental health service delivery systems, or
6 community mental health programs as defined in RCW 71.24.025, and
7 facilities conducting competency evaluations and restoration under
8 chapter 10.77 RCW.

9 (2)(a) Information related to mental health services delivered to
10 a person subject to chapter 9.94A or 9.95 RCW shall be released, upon
11 request, by a mental health service provider to department of
12 corrections personnel for whom the information is necessary to carry
13 out the responsibilities of their office. The information must be
14 provided only for the purposes of completing presentence investigations
15 or risk assessment reports, supervision of an incarcerated offender or
16 offender under supervision in the community, planning for and provision
17 of supervision of an offender, or assessment of an offender's risk to
18 the community. The request shall be in writing and shall not require
19 the consent of the subject of the records.

20 (b) If an offender subject to chapter 9.94A or 9.95 RCW has failed
21 to report for department of corrections supervision or in the event of
22 an emergent situation that poses a significant risk to the public or
23 the offender, information related to mental health services delivered
24 to the offender and, if known, information regarding where the offender
25 is likely to be found shall be released by the mental health services
26 provider to the department of corrections upon request. The initial
27 request may be written or oral. All oral requests must be subsequently
28 confirmed in writing. Information released in response to an oral
29 request is limited to a statement as to whether the offender is or is
30 not being treated by the mental health services provider and the
31 address or information about the location or whereabouts of the
32 offender. Information released in response to a written request may
33 include information identified by rule as provided in subsections (4)
34 and (5) of this section. For purposes of this subsection a written
35 request includes requests made by e-mail or facsimile so long as the
36 requesting person at the department of corrections is clearly
37 identified. The request must specify the information being requested.

1 Disclosure of the information requested does not require the consent of
2 the subject of the records unless the offender has received relief from
3 disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.

4 (3)(a) When a mental health service provider conducts its initial
5 assessment for a person receiving court-ordered treatment, the service
6 provider shall inquire and shall be told by the offender whether he or
7 she is subject to supervision by the department of corrections.

8 (b) When a person receiving court-ordered treatment or treatment
9 ordered by the department of corrections discloses to his or her mental
10 health service provider that he or she is subject to supervision by the
11 department of corrections, the mental health services provider shall
12 notify the department of corrections that he or she is treating the
13 offender and shall notify the offender that his or her community
14 corrections officer will be notified of the treatment, provided that if
15 the offender has received relief from disclosure pursuant to RCW
16 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
17 mental health services provider with a copy of the order granting
18 relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or
19 71.05.132, the mental health services provider is not required to
20 notify the department of corrections that the mental health services
21 provider is treating the offender. The notification may be written or
22 oral and shall not require the consent of the offender. If an oral
23 notification is made, it must be confirmed by a written notification.
24 For purposes of this section, a written notification includes
25 notification by e-mail or facsimile, so long as the notifying mental
26 health service provider is clearly identified.

27 (4) The information to be released to the department of corrections
28 shall include all relevant records and reports, as defined by rule,
29 necessary for the department of corrections to carry out its duties,
30 including those records and reports identified in subsection (2) of
31 this section.

32 (5) The department and the department of corrections, in
33 consultation with regional support networks, mental health service
34 providers as defined in subsection (1) of this section, mental health
35 consumers, and advocates for persons with mental illness, shall adopt
36 rules to implement the provisions of this section related to the type
37 and scope of information to be released. These rules shall:

1 (a) Enhance and facilitate the ability of the department of
2 corrections to carry out its responsibility of planning and ensuring
3 community protection with respect to persons subject to sentencing
4 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
5 disclosing information of persons who received mental health services
6 as a minor; and

7 (b) Establish requirements for the notification of persons under
8 the supervision of the department of corrections regarding the
9 provisions of this section.

10 (6) The information received by the department of corrections under
11 this section shall remain confidential and subject to the limitations
12 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
13 72.09.585.

14 (7) No mental health service provider or individual employed by a
15 mental health service provider shall be held responsible for
16 information released to or used by the department of corrections under
17 the provisions of this section or rules adopted under this section
18 except under RCW (~~(71.05.670 and)~~) 71.05.440.

19 (8) Whenever federal law or federal regulations restrict the
20 release of information contained in the treatment records of any
21 patient who receives treatment for alcoholism or drug dependency, the
22 release of the information may be restricted as necessary to comply
23 with federal law and regulations.

24 (9) This section does not modify the terms and conditions of
25 disclosure of information related to sexually transmitted diseases
26 under chapter 70.24 RCW.

27 (10) The department shall, subject to available resources,
28 electronically, or by the most cost-effective means available, provide
29 the department of corrections with the names, last dates of services,
30 and addresses of specific regional support networks and mental health
31 service providers that delivered mental health services to a person
32 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
33 the departments.

34 **Sec. 712.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to
35 read as follows:

36 (1) Procedures shall be established by resource management services

1 to provide reasonable and timely access to individual treatment
2 records. However, access may not be denied at any time to records of
3 all medications and somatic treatments received by the individual.

4 (2) Following discharge, the individual shall have a right to a
5 complete record of all medications and somatic treatments prescribed
6 during evaluation, admission, or commitment and to a copy of the
7 discharge summary prepared at the time of his or her discharge. A
8 reasonable and uniform charge for reproduction may be assessed.

9 (3) Treatment records may be modified prior to inspection to
10 protect the confidentiality of other patients or the names of any other
11 persons referred to in the record who gave information on the condition
12 that his or her identity remain confidential. Entire documents may not
13 be withheld to protect such confidentiality.

14 (4) At the time of discharge all individuals shall be informed by
15 resource management services of their rights as provided in RCW
16 (~~71.05.610~~) 71.05.620 through 71.05.690.

17 **Sec. 713.** RCW 71.05.680 and 1999 c 13 s 11 are each amended to
18 read as follows:

19 Any person who requests or obtains confidential information
20 pursuant to RCW (~~71.05.610~~) 71.05.620 through 71.05.690 under false
21 pretenses shall be guilty of a gross misdemeanor.

22 **Sec. 714.** RCW 71.05.690 and 1999 c 13 s 12 are each amended to
23 read as follows:

24 The department shall adopt rules to implement RCW (~~71.05.610~~)
25 71.05.620 through 71.05.680.

26 **Sec. 715.** RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are
27 each reenacted and amended to read as follows:

28 (1) The department is designated as the state mental health
29 authority.

30 (2) The secretary shall provide for public, client, and licensed
31 service provider participation in developing the state mental health
32 program, developing contracts with regional support networks, and any
33 waiver request to the federal government under medicaid.

34 (3) The secretary shall provide for participation in developing the

1 state mental health program for children and other underserved
2 populations, by including representatives on any committee established
3 to provide oversight to the state mental health program.

4 (4) The secretary shall be designated as the county authority if a
5 county fails to meet state minimum standards or refuses to exercise
6 responsibilities under RCW 71.24.045.

7 (5) The secretary shall:

8 (a) Develop a biennial state mental health program that
9 incorporates county biennial needs assessments and county mental health
10 service plans and state services for mentally ill adults and children.
11 The secretary may also develop a six-year state mental health plan;

12 (b) Assure that any regional or county community mental health
13 program provides access to treatment for the county's residents in the
14 following order of priority: (i) The acutely mentally ill; (ii)
15 chronically mentally ill adults and severely emotionally disturbed
16 children; and (iii) the seriously disturbed. Such programs shall
17 provide:

18 (A) Outpatient services;

19 (B) Emergency care services for twenty-four hours per day;

20 (C) Day treatment for mentally ill persons which includes training
21 in basic living and social skills, supported work, vocational
22 rehabilitation, and day activities. Such services may include
23 therapeutic treatment. In the case of a child, day treatment includes
24 age-appropriate basic living and social skills, educational and
25 prevocational services, day activities, and therapeutic treatment;

26 (D) Screening for patients being considered for admission to state
27 mental health facilities to determine the appropriateness of admission;

28 (E) Employment services, which may include supported employment,
29 transitional work, placement in competitive employment, and other work-
30 related services, that result in mentally ill persons becoming engaged
31 in meaningful and gainful full or part-time work. Other sources of
32 funding such as the division of vocational rehabilitation may be
33 utilized by the secretary to maximize federal funding and provide for
34 integration of services;

35 (F) Consultation and education services; and

36 (G) Community support services;

37 (c) Develop and adopt rules establishing state minimum standards

1 for the delivery of mental health services pursuant to RCW 71.24.037
2 including, but not limited to:

3 (i) Licensed service providers. The secretary shall provide for
4 deeming of compliance with state minimum standards for those entities
5 accredited by recognized behavioral health accrediting bodies
6 recognized and having a current agreement with the department;

7 (ii) Regional support networks; and

8 (iii) Inpatient services, evaluation and treatment services and
9 facilities under chapter 71.05 RCW, resource management services, and
10 community support services;

11 (d) Assure that the special needs of minorities, the elderly,
12 disabled, children, and low-income persons are met within the
13 priorities established in this section;

14 (e) Establish a standard contract or contracts, consistent with
15 state minimum standards, which shall be used in contracting with
16 regional support networks or counties. The standard contract shall
17 include a maximum fund balance, which shall not exceed ten percent;

18 (f) Establish, to the extent possible, a standardized auditing
19 procedure which minimizes paperwork requirements of county authorities
20 and licensed service providers. The audit procedure shall focus on the
21 outcomes of service and not the processes for accomplishing them;

22 (g) Develop and maintain an information system to be used by the
23 state, counties, and regional support networks that includes a tracking
24 method which allows the department and regional support networks to
25 identify mental health clients' participation in any mental health
26 service or public program on an immediate basis. The information
27 system shall not include individual patient's case history files.
28 Confidentiality of client information and records shall be maintained
29 as provided in this chapter and in RCW 71.05.390, (~~71.05.400,~~
30 ~~71.05.410,~~) 71.05.420, (~~71.05.430,~~) and 71.05.440. The design of
31 the system and the data elements to be collected shall be reviewed by
32 the work group appointed by the secretary under section 5(1) of this
33 act and representing the department, regional support networks, service
34 providers, consumers, and advocates. The data elements shall be
35 designed to provide information that is needed to measure performance
36 and achieve the service outcomes (~~identified in section 5 of this~~
37 ~~act~~));

38 (h) License service providers who meet state minimum standards;

- 1 (i) Certify regional support networks that meet state minimum
2 standards;
- 3 (j) Periodically monitor the compliance of certified regional
4 support networks and their network of licensed service providers for
5 compliance with the contract between the department, the regional
6 support network, and federal and state rules at reasonable times and in
7 a reasonable manner;
- 8 (k) Fix fees to be paid by evaluation and treatment centers to the
9 secretary for the required inspections;
- 10 (l) Monitor and audit counties, regional support networks, and
11 licensed service providers as needed to assure compliance with
12 contractual agreements authorized by this chapter; and
- 13 (m) Adopt such rules as are necessary to implement the department's
14 responsibilities under this chapter.
- 15 (6) The secretary shall use available resources only for regional
16 support networks.
- 17 (7) Each certified regional support network and licensed service
18 provider shall file with the secretary, on request, such data,
19 statistics, schedules, and information as the secretary reasonably
20 requires. A certified regional support network or licensed service
21 provider which, without good cause, fails to furnish any data,
22 statistics, schedules, or information as requested, or files fraudulent
23 reports thereof, may have its certification or license revoked or
24 suspended.
- 25 (8) The secretary may suspend, revoke, limit, or restrict a
26 certification or license, or refuse to grant a certification or license
27 for failure to conform to: (a) The law; (b) applicable rules and
28 regulations; (c) applicable standards; or (d) state minimum standards.
- 29 (9) The superior court may restrain any regional support network or
30 service provider from operating without certification or a license or
31 any other violation of this section. The court may also review,
32 pursuant to procedures contained in chapter 34.05 RCW, any denial,
33 suspension, limitation, restriction, or revocation of certification or
34 license, and grant other relief required to enforce the provisions of
35 this chapter.
- 36 (10) Upon petition by the secretary, and after hearing held upon
37 reasonable notice to the facility, the superior court may issue a
38 warrant to an officer or employee of the secretary authorizing him or

1 her to enter at reasonable times, and examine the records, books, and
2 accounts of any regional support network or service provider refusing
3 to consent to inspection or examination by the authority.

4 (11) Notwithstanding the existence or pursuit of any other remedy,
5 the secretary may file an action for an injunction or other process
6 against any person or governmental unit to restrain or prevent the
7 establishment, conduct, or operation of a regional support network or
8 service provider without certification or a license under this chapter.

9 (12) The standards for certification of evaluation and treatment
10 facilities shall include standards relating to maintenance of good
11 physical and mental health and other services to be afforded persons
12 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
13 otherwise assure the effectuation of the purposes of these chapters.

14 (13)(a) The department, in consultation with affected parties,
15 shall establish a distribution formula that reflects county needs
16 assessments based on the number of persons who are acutely mentally
17 ill, chronically mentally ill, severely emotionally disturbed children,
18 and seriously disturbed. The formula shall take into consideration the
19 impact on counties of demographic factors in counties which result in
20 concentrations of priority populations as set forth in subsection
21 (5)(b) of this section. These factors shall include the population
22 concentrations resulting from commitments under chapters 71.05 and
23 71.34 RCW to state psychiatric hospitals, as well as concentration in
24 urban areas, at border crossings at state boundaries, and other
25 significant demographic and workload factors.

26 (b) The formula shall also include a projection of the funding
27 allocations that will result for each county, which specifies
28 allocations according to priority populations, including the allocation
29 for services to children and other underserved populations.

30 (c) After July 1, 2003, the department may allocate up to two
31 percent of total funds to be distributed to the regional support
32 networks for incentive payments to reward the achievement of superior
33 outcomes, or significantly improved outcomes, as measured by a
34 statewide performance measurement system consistent with the framework
35 recommended in the joint legislative audit and review committee's
36 performance audit of the mental health system. The department shall
37 annually report to the legislature on its criteria and allocation of
38 the incentives provided under this subsection.

1 (14) The secretary shall assume all duties assigned to the
2 nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW.
3 Such responsibilities shall include those which would have been
4 assigned to the nonparticipating counties under regional support
5 networks.

6 The regional support networks, or the secretary's assumption of all
7 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
8 included in all state and federal plans affecting the state mental
9 health program including at least those required by this chapter, the
10 medicaid program, and P.L. 99-660. Nothing in these plans shall be
11 inconsistent with the intent and requirements of this chapter.

12 (15) The secretary shall:

13 (a) Disburse funds for the regional support networks within sixty
14 days of approval of the biennial contract. The department must either
15 approve or reject the biennial contract within sixty days of receipt.

16 (b) Enter into biennial contracts with regional support networks.
17 The contracts shall be consistent with available resources. No
18 contract shall be approved that does not include progress toward
19 meeting the goals of this chapter by taking responsibility for: (i)
20 Short-term commitments; (ii) residential care; and (iii) emergency
21 response systems.

22 (c) Allocate one hundred percent of available resources to the
23 regional support networks in accordance with subsection (13) of this
24 section. Incentive payments authorized under subsection (13) of this
25 section may be allocated separately from other available resources.

26 (d) Notify regional support networks of their allocation of
27 available resources at least sixty days prior to the start of a new
28 biennial contract period.

29 (e) Deny funding allocations to regional support networks based
30 solely upon formal findings of noncompliance with the terms of the
31 regional support network's contract with the department. Written
32 notice and at least thirty days for corrective action must precede any
33 such action. In such cases, regional support networks shall have full
34 rights to appeal under chapter 34.05 RCW.

35 (16) The department, in cooperation with the state congressional
36 delegation, shall actively seek waivers of federal requirements and
37 such modifications of federal regulations as are necessary to allow
38 federal medicaid reimbursement for services provided by free-standing

1 evaluation and treatment facilities certified under chapter 71.05 RCW.
2 The department shall periodically report its efforts to the appropriate
3 committees of the senate and the house of representatives.

4 **PART VIII**

5 **MISCELLANEOUS PROVISIONS**

6 NEW SECTION. **Sec. 801.** RCW 71.05.035 is recodified as a new
7 section in chapter 71A.12 RCW.

8 NEW SECTION. **Sec. 802.** A new section is added to chapter 43.20A
9 RCW to read as follows:

10 Beginning July 1, 2007, the secretary shall require, in the
11 contracts the department negotiates pursuant to chapters 71.24 and
12 70.96A RCW, that any vendor rate increases provided for mental health
13 and chemical dependency treatment providers or programs who are parties
14 to the contract or subcontractors of any party to the contract shall be
15 prioritized to those providers and programs that maximize the use of
16 evidence-based and research-based practices, as those terms are defined
17 in section 603 of this act, unless otherwise designated by the
18 legislature.

19 NEW SECTION. **Sec. 803.** A new section is added to chapter 71.24
20 RCW to read as follows:

21 The department shall require each regional support network to
22 provide for a separately funded mental health ombudsman office in each
23 regional support network that is independent of the regional support
24 network. The ombudsman office shall maximize the use of consumer
25 advocates.

26 NEW SECTION. **Sec. 804.** A new section is added to chapter 82.14
27 RCW to read as follows:

28 (1) A county legislative authority may authorize, fix, and impose
29 a sales and use tax in accordance with the terms of this chapter.

30 (2) The tax authorized in this section shall be in addition to any
31 other taxes authorized by law and shall be collected from those persons
32 who are taxable by the state under chapters 82.08 and 82.12 RCW upon

1 the occurrence of any taxable event within the county. The rate of tax
2 shall equal one-tenth of one percent of the selling price in the case
3 of a sales tax, or value of the article used, in the case of a use tax.

4 (3) Moneys collected under this section shall be used solely for
5 the purpose of providing new or expanded chemical dependency or mental
6 health treatment services and for the operation of new or expanded
7 therapeutic court programs. Moneys collected under this section shall
8 not be used to supplant existing funding for these purposes.

9 NEW SECTION. **Sec. 805.** A new section is added to chapter 71.24
10 RCW to read as follows:

11 The department may establish new regional support network
12 boundaries in any part of the state where more than one network chooses
13 not to respond to, or is unable to substantially meet the requirements
14 of, the request for qualifications under 2005 c . . . (Engrossed Second
15 Substitute House Bill No. 1290, as amended by the Senate) s 4 or where
16 a regional support network is subject to reprourement under 2005 c
17 . . . (Engrossed Second Substitute House Bill No. 1290, as amended by
18 the Senate) s 6. The department may establish no fewer than eight and
19 no more than fourteen regional support networks under this chapter. No
20 entity shall be responsible for more than three regional support
21 networks.

22 NEW SECTION. **Sec. 806.** 2005 c ... (Engrossed Second Substitute
23 House Bill No. 1290, as amended by the Senate) s 5 is hereby repealed.

24 NEW SECTION. **Sec. 807.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 808.** This act shall be so applied and construed
29 as to effectuate its general purpose to make uniform the law with
30 respect to the subject of this act among those states which enact it.

31 NEW SECTION. **Sec. 809.** Captions, part headings, and subheadings
32 used in this act are not part of the law.

1 NEW SECTION. **Sec. 810.** If specific funding for the purposes of
2 sections 203, 217, 220, 301, 303, 305, 505, 601, and 605 of this act,
3 referencing the section by section number and by bill or chapter
4 number, is not provided by June 30, 2005, each section not referenced
5 is null and void.

6 NEW SECTION. **Sec. 811.** (1) The code reviser shall alphabetize and
7 renumber the definitions, and correct any internal references affected
8 by this act.

9 (2) The code reviser shall replace all references to "county
10 designated mental health professional" with "designated mental health
11 professional" in the Revised Code of Washington.

12 NEW SECTION. **Sec. 812.** (1) The secretary of the department of
13 social and health services may adopt rules as necessary to implement
14 the provisions of this act.

15 (2) The secretary of corrections may adopt rules as necessary to
16 implement the provisions of this act.

17 NEW SECTION. **Sec. 813.** (1) Except for section 503 of this act,
18 this act is necessary for the immediate preservation of the public
19 peace, health, or safety, or support of the state government and its
20 existing public institutions, and takes effect July 1, 2005.

21 (2) Section 503 of this act takes effect July 1, 2006."

E2SSB 5763 - CONF REPT
By Conference Committee

22 On page 1, line 2 of the title, after "2005;" strike the remainder
23 of the title and insert "amending RCW 71.05.020, 71.24.025, 10.77.010,
24 71.05.360, 71.05.420, 71.05.620, 71.05.630, 71.05.640, 71.05.660,
25 71.05.550, 2.28.170, 71.05.157, 5.60.060, 18.83.110, 18.225.105,
26 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640, 71.05.680, and

1 71.05.690; reenacting and amending RCW 71.05.390 and 71.24.035; adding
2 new sections to chapter 71.05 RCW; adding new sections to chapter
3 70.96A RCW; adding a new section to chapter 13.34 RCW; adding new
4 sections to chapter 2.28 RCW; adding a new section to chapter 26.12
5 RCW; adding new sections to chapter 71.24 RCW; adding a new section to
6 chapter 71.02 RCW; adding a new section to chapter 71A.12 RCW; adding
7 a new section to chapter 43.20A RCW; adding a new section to chapter
8 82.14 RCW; adding new chapters to Title 70 RCW; creating new sections;
9 recodifying RCW 71.05.370 and 71.05.035; repealing RCW 71.05.060,
10 71.05.070, 71.05.090, 71.05.200, 71.05.250, 71.05.450, 71.05.460,
11 71.05.470, 71.05.480, 71.05.490, 71.05.155, 71.05.395, 71.05.400,
12 71.05.410, 71.05.430, 71.05.610, 71.05.650, and 71.05.670; repealing
13 2005 c ... (E2SHB 1290) s 5; prescribing penalties; providing effective
14 dates; providing expiration dates; and declaring an emergency."

--- END ---